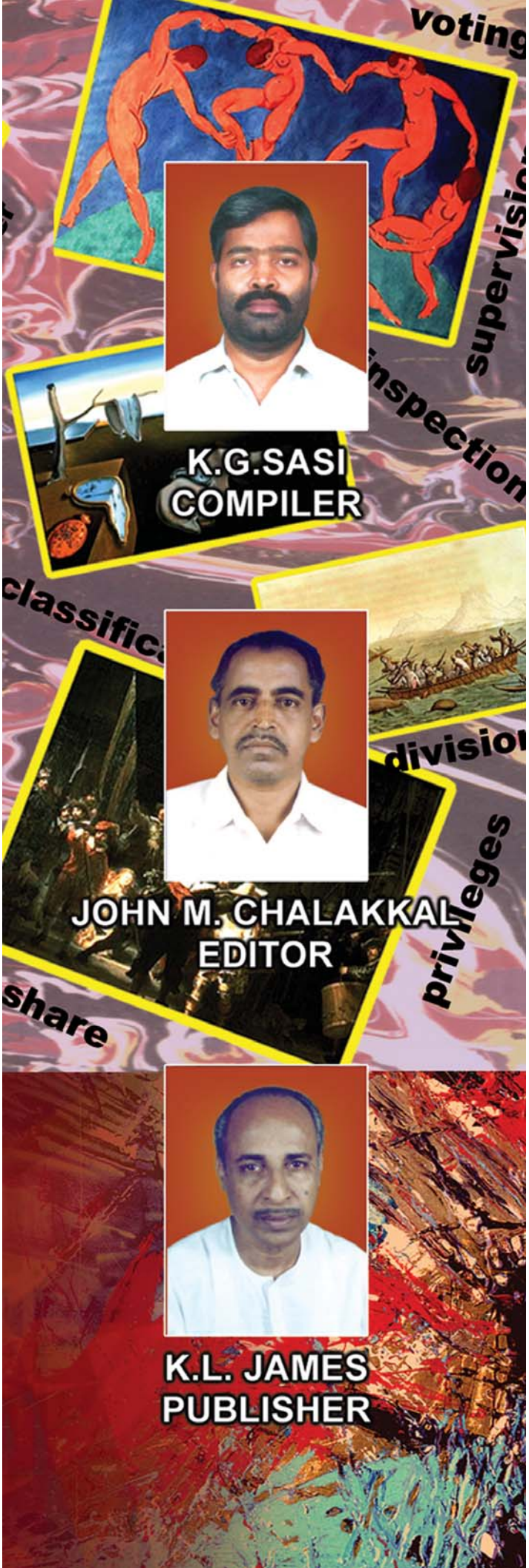


THEORY AND PRACTICE OF CO-OPERATIVE SOCIETIES LAWS IN KERALA VOL. I


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JOHN M. CHALAKKAL
EDITOR
K.L. JAMES
PUBLISHER

THEORY AND PRACTICE OF CO-OPERATIVE SOCIETIES LAWS IN KERALA

Vol.I

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Societies Laws in Kerala Vol.I English

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Price Rs.750/-

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PUBLISHER'S NOTES

Contemporary co-operative literature in Kerala is facing poverty in philosophy in both its contents and approach. The co-operative legal literature in particular has become recitations and repetitions of material collected at largely at random from various sources. The compilers of such books do not seem to apply their minds to penetrate into the basic principles underlying these information. A legal publication while being descriptive must not only be educational but also be dynamic in the furtherance of the true spirit of the lessons taught by it; and shall simultaneously give the exact authentic legal interpretation of the words and phrases reproduced therein.

Our former work "Sahakarana Sarkular Samaharam" was our first attempt in this direction; and we are grateful for the grand welcome it enjoyed from the learned readers. Since its publication our beloved well-wishers urged us to venture into the publication of a book on co-operative laws in Kerala which they thought would be a milestone in the history of the co-operative legal literature in Kerala. With utmost humbleness we dared to take up the challenge and even now only half of the task could be successfully completed after the hard work during the last three years.

Even though the entire work is not finished, we are still proud to hand over the first volume of "The Theory and Practice of Co-operative Societies Laws in Kerala" to the generous co-operators who, we hope, would welcome this work with the same affection and kindness they have extended to its predecessor "Sahakarana Sarkular Samaharam".

Let me express my feelings of gratitude to all those co-operators and officers who have been helpful in the collection, compilation and editing, without whose sincere efforts this work would not have been so fruitful. I thank the craftsmen of Gaurisam Graphics, Meloor who have worked hard on the cover design, lay out and D.T.P. of this book. I extend my special gratitude to Artist Joshe who has allowed us to use his paintings as back ground for the cover of this volume. I equally thank the staff and proprietor of the Priya Offset Printers, Chalakudy who have neatly executed the printing of this book. We are indebted to the Services of Dr. M.C. Valsan, LL.M., Ph.D. who has kindly supplimented this volume with his beautiful Foreword.

Thrissur
1-10-2005

K.L. James
Publisher

PREFACE

Attained its freedom on 15th August 1947, India became a political entity in the comity of nations. It sprouted itself with the authority of a republic on 26th January 1950 by adopting the *Constitution of India*. The *preamble* of the constitution promises to secure to all its citizens social, economic, justice, equality of status and opportunity and assures the dignity of the individual. Consistent with the constitutional provisions, several laws have been enacted by the states which cover various sectors of human development endowed with agriculture, industry, commerce, education, health and family welfare, transport, labour, housing, cultural affairs and so on.

Co-operation encompasses all fields of human endeavor for development and welfare. Thus Co-operative Acts in general work as statutory instruments for regulation of co-operative societies from their formation to liquidation. This book comprises mainly of *The Kerala Co-operative Societies Act, 1969*, prepared in two volumes. The sections, rules, judgments of honourable courts pronounced there under and other Acts and Rules dealing with co-operative societies in general have been amply illustrated in this book keeping in mind the requirements of the co-operators, co-operative managers and staff, departmental officers, students, trainees and faculty members of co-operative training colleges, training centres and other institutions of co-operative education and management.

The principles of co-operation are derived from the application of human rights especially of individuals coming together having limited resources who want to live with dignity. Constitution of India is a powerful weapon for the protection of human rights as it stands aloft against inequality and exploitation. It is worthwhile to note here that relevant principles of human rights as well as that of the constitution have been incorporated in this volume in order that a person associating with the co-operative movement should not be kept away from the roadmap of human rights and constitutional guarantees.

The relationship between a co-operative society and a member or any person associating with it has to be guided by the *Principles of Co-operation* which are universally accepted. At the same time the relationship between the state and co-operative institutions is not merely to be governed by the principles of co-operation but shall be worked out in the role of a controller and regulator of the movement, hence the essentiality of the *Co-operative Act*. Apart from the peoples

representatives involved in the local self-government institutions, tens of thousands of co-operators are represented in the management of co-operatives. Co-operators are peoples' representatives. No co-operator dealing with the working of co-operatives can avoid in his hands, a copy of the Co-operative Act and Rules.

Grown over the years is the linkage between the state and the co-operative movement which dates back to the year 1919 in which period the policy of the state towards the movement flourished and its implementation by various co-operative institutions. The shape, contents and directions in the *Co-operative Act* would be changing as a continued process required by the exigencies of emerging economic, social and political situations. The amendments in the *Co-operative Act,* the rules framed there under, the exercise of powers as regulator and controller of co-operative movement as the guardian of *Public Policy* by the *Registrar of Co-operative Societies* are therefore unavoidable and essential for the development of the movement in a democratic governmental set up. When a government is changed the co-operative policy and action is also changed; and the Co-operative Act and Rules are amended accordingly. Persons working in the co-operative institutions shall go together with these amendments. In other words, updating of co-operative knowledge as reflected in the amendments of the Co-operative Act and Rules by the co-operators and co-operative officials alike has been felt the need of the times. The relevance of this book amply suffices the above situation.

Circulars issued by the *Registrar of Co-operative Societies* are the tools and implements in driving forward the co-operative movement in accordance with the related provisions in the Co-operative Act and Rules, also keeping in mind the principles of co-operation and State Policy. An attempt has been made in this book to put in black and white the important circulars issued by the Registrar of Co-operative Societies other than those which brought out to light through the book edited by me under the title, '*Sahakarana Sarkular Samaharam*', published in the year 2001.

The Registrar of Co-operative Societies is vested with the powers of *Audit* of all types of co-operative institutions large or small, primary, cental or apex. The powers of audit are being exercised by the Registrar through the auditors of *Co-operative Department of the State. Co-operative Auditors* include co-operative audit staff of the department from the bottom level junior co-operative auditors to the higher level *Additional Registrar of Co-operative Societies*. The audit work to be done in respect of each type of co-operative societies has been formulated by the Registrar of Co-operative Societies in the *Audit Manual*. A few parts of the Audit Manual have been kept recorded in this book for the reference of Auditors of the co-operative department and officers of the co-operative institutions as defined

in the Co-operative Societies Act. Additional parts of Audit Manual will be edited and printed in *Volume No.2*, which is being considered to be published shortly.

As already explained the book under the title *'Theory and Practice of Co-operative Societies Laws in Kerala'* brings out to the readers' hands in two volumes; the present one is *Volume No.1*. The important judgments framed or pronounced or interpreted by the honourable courts in the application of Co-operative Societies Act and its rules are amply illustrated in this volume also. *Other Acts and Rules* relevant to the administration and working of co-operatives are also gathered and appended to this volume to suit the related needs. In essence, I humbly submit before the readers, this book would stand ahead as a genuine *Reference Book of co-operative statute* about co-operative institutions of our state. It would appear unique in the collections of other similar books, ever so edited among the category of *Knowledge Literature* and published either in Malayalam or English language. However, I am equally submissive in turning my eyes open with humility to take notice any deficiency or defects to be pointed out by the respected readers while going through this volume. It is my bounden duty to correct them with utmost care while editing identical work as visualized in Volume No. 2 or in the second edition of this book.

In the endeavor of editing this book, the main credit undoubtedly goes to Mr. K.G.Sasi, the resourceful compiler, who despite his official responsibilities extended his whole-hearted effort and support without which it would not have been possible for me to place on my shoulders an editor's task. I extend my deep debt of gratitude to his esteemed co-operation in bringing forth the second volume in not so long future. I feel particularly overwhelmed by the love, affection, advice and constant support I received from Mr. K.L.James, time-honoured co-operator of Kerala, who volunteered to take to risk the work of publishing of this book, as in the case of publishing of a similar book brought out under reference series, 'Sahakarana Sarkular Samaharam'.

John M. Chalakkal
Editor

FOREWORD

The Co-operative movement in Kerala over the years has established its immense potential in influencing the economic well being of the people and the society at large. The unique characteristic of this movement is that it relies tremendously on the sprit of self reliance and commitment to one's own economic well being, which in turn is inextricably related to the overall development and welfare of the country. The Co-operative movement has made phenomenal contributions in alleviating rural poverty and in assuring an unprecedented growth and development in almost every sphere of human activity. From the Rural Credit Societies and Primary Co-operative Societies of the yesteryears, the Co-operative movement has recorded rapid progress, expanding its activities to hitherto unimaginable realms and thereby reemphasizing its immense potential to bring in spectacular achievements and developments in the society as a whole. Co-operative enterprises ranging from Rural Credit Societies to superspeciality hospitals and banking institutions capable of competing with big commercial banks are now engaged in flourishing business activities. It is only because of its ability established through these years in ensuring peoples' trust and confidence and faith in a movement like this.

Our society is imbued with so many socio-political economic and ethnic complexities involving the lives and aspirations of millions of rural population. They are vulnerable due to so many historic factors latent in it. Their uplift and economic emancipation is very pertinent in the social development we aim at. More than any other human endeavour, the Co-operative movement is perhaps the ideal institution that could promise a panacea for all the socio-economic problems confronting the people, especially at the lower strata of the society. Even though the Co-operative movement has established its presence in the society in diverse forms, making it impossible for anyone to willingly ignore it, we can not assume a complacent attitude, feeling at everything would go on smoothly without ourselves making deliberate efforts aimed at awakening peoples' awareness about the movement as a whole and also about the acts and rules governing the routine activities of any Co-operative institution. Since this is a peoples' movement and has many of the Co-operators as well as a majority of the beneficiaries hail from the ordinary stock of the population, there is special relevance for any endeavour to educate people about the structure

and functioning of Co-operative institutions. This book fulfills many of these needs of the society. The analysis of basic concepts and principles relating to cooperative movement is a rewarding experience to anyone hoping to acquaint with this topic. Similarly elaborate exposition of the relevant Constitutional provisions so far as it relates to the Co-operative Acts and Rules make this book a fascinating reference tool both to the practitioners of law as well as everyone who in his daily routine is faced with diverse issues in his capacity either as an official or a member of the governing body of a Co-operative institution.

Viewed in this perspective, a very comprehensive compilation of all the relevant documents one may require for frequent reference brought out in a useful compilation like this fulfills a long cherished need. I congratulate everyone associated with this noble venture for their painstaking efforts and they can certainly be proud of a publication like this, which I hope would be whole heartedly welcomed by everyone who has anything to do with a Co-operative institution in a worthwhile manner. The publishers of ***"Theory and Practice of Co-operative Societies Laws in Kerala Volume I"*** have undertaken a noble task and they have fulfilled it with a deep sense of commitment for which they have every reason to be proud of. This volume, I am confident would turn out to be a most sought after reference book by everyone including members of the legal profession, Co-operators, students of Co-operative movement as well as any natural enthusiast who desire to know what the C-operative movement is all about.

Dr. M.C. VALSON LL.M., PhD
SECRETARY
Kerala Legislative Assembly

Thiruvananthapuram
11.11.2005

HOW TO USE THIS BOOK

Before using this Book the reader is requested to go through the following tips.

Direction A

1 Know exactly what your requirement is.
2 Define under what classification of the subject the matter falls.
3 Ensure that your subject comes within the Contents of this Volume .
4 Check whether your subject is one of the Contents of this Book .
5 If yes, follow Direction B; if no follow Direction C.

Direction B

1 Check the subheads in the Contents to the least level and go to the page reffered to.
2. Find the Provisions of the Act, then the Rules and Forms, then Case Laws, and Notifications, if there is any. They are given in their respective order.
3 Refer to the Circulars and Government Orders etc which are given at the end of each main content execept in exceptional cases where the main head covers more information which necessiates further division. In such cases go to such pages for reference.
4 Refer to the sub classification of the Case Laws and Circulars whereever materials are plenty. Such classification is shown in the beginning page of such Case Laws or Circulars.
5 Glance at the Foot Notes at the bottom of each page.
6 Go through the Notes giving additional information on the subject or reproducing relevant portion of connected laws.
7 Refer also to the related topics in case the information needed is a complex one or if it covers more than one subject.
8 Bear in mind that though the latest Case Laws are given first and in chronological order, the Circular section is arranged in the reverse order, ie. the oldest being the first. This is because the circulars reveal the historical aspect also.
9 Refer Sahakarana Sarkular Samaharam also in case the Circular or Notification required is issued in 2000 or before. The subject and page Number in this regard are given in this volume for ready reference.
10 Always correlate the facts of the issue with the facts of law as you find the same in this book and ascertain whether the required information is obtained. If your requirement is not met with, perhaps you may find it if the same steps are followed to look up in a connected sub head of contents.

11 Confirm your findings with the original official record if available and ensure that no mistakes, misrepresentation or misinterpretation has occured.

Direction C

1 Find out a related subject from the Contents list of the Book and follow the Direction B. You have every reason to get a few of the information you need. Refer to a few other related heads similarly and you may get all the required data.

2 If you are looking for certain case laws or circulars which may not have any direct relation to the Co-operative Societies Act or the Rules made thereunder, You may perhaps have an idea of the time such data must have come out. Refer to the possible portions avoiding totally irrelevant areas and look up the Case Laws portion or Circular portion or otherwise as the case may be for the specified period. Since this is a comprehensive Volume you have high chances to obtain your information.

3 Always attempt for additional information under the Introduction and Preliminary Chapters of this Book, for most of the General topics are arranged therein.

4 If you are concerned about the Co-operative Movement refer to the first Chapter Introduction.

5 If you are concerned about the business or working of the Society refer to the chapter Funds

6 In case of Audit refer to the Kerala Co-operative Audit Manuel Vol.I also, though much of that book is included in Vol.II of this Book.

7 If you are a newcomer to this field, follow the Guidelines in Direction D

Direction D

1 A newcomer must at least go through the complete contents of the Chapter Introduction to have a comprehensive view of the Co-operative Movement and its status under the Constitution of India.

2 He should learn the General Scheme of the Kerala Co-operative Societies Act, 1969 and the Rules made thereunder.

3 Now he is able to face the problems with absolute optimism. But to tackle it he should first define his problem. After defining the problem follow steps in Direction A

We wish all the readers a happy reading and a successful solution to their needs. Let us start with a new hope and a new rainbow

Skill comes so slow, and life so fast doth fly,
We learn so little and forget so much.

John Davies (1569 - 1626)

If we stand tall it is because we stand
on the shoulders of many ancestors.

Anonymous

All the world is queer save thee and me,
and even thou art a little queer.

Attributed to Robert Owen (1771 - 1858)

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INTRODUCTION

CO-OPERATIVE MOVEMENT

Scope of Co-operation

The word "Co-operation" has its origin from the late 16th century ecclesiastical Latin usage "cooperat" which is the past participle stem of cooperari. The Latin word "operari" means "to work". Hence co-operation literally means "working together". A glance through a dictionary reveals that this word has the following meanings among others.

1. The act of working together to achieve a common aim.
2. Willing to help, doing, or willing to do, what is asked or required.
3. Working or acting together with others, or done by people working or acting together.
4. Operated collectively and owned jointly by all its members or workers, who share all profits equally.
5. A business that is jointly owned by the people who run it, with all profits shared equally.
6. To work or act together to achieve a common aim.

Beyond all these simple discriptions, there is a great philosophy, a vision and a way of living laying hidden in this simple noun. Co-operation has been evolved into a unique social, econimic, commercial and industrial system followed and supported by millions of people throught the world. The march of this system has well been identified and named as the "Great Co-operative Movement". The classification according to Sri. J.C. Kumarappa, the famous Gandhian economist of the human activities into individual, co-operative and State-motivated can be considered here for the purpose of defining the scope of the Co-operative Movement. The definition of Sri.Kumarappa though wrongly includes other types of collective activities under co-operative activities, has rightly restricted its scope between individual activities and State- motivated activities. Gandhiji and Ghandhists have always failed to identify the Co-operative Movement as having any special identity. They cannot be blamed because a survey conducted during 1967 - 68 by Sri. O.R. Krishnaswamy among the members of various co-operative societies revealed that 95% of them had no awareness of the objectives of their co-operative societies. Very few people had any idea at that time about the "Great Co-operative Movement". But times have changed a great deal.

The Co-operative Movement shoots its roots into the human life by the development of institutions called co-operatives and by their federal organizations.

There have always been various structures having resemblance with these institutions everywhere in the world from the very dawn of civilization. But they were never gathered under the shade of an organization and being subject to local evolution their co-operative nature gradually changed into other social and economic forms, until the arrival of the "Industrial Revolution."

Rochdale Equittable Pioneers Society

The Industrial Revolution originated in Europe, is a milestone in the development of the science, technology and applied philosophy. It was a time of turbulence and turmoil. Along with the accumulation of unrestricted wealth there was tremendous growth of poverty, unemployment and wage-slavery. Jean Sismondi (1773 - 1842), the Swiss historian and political economist when referring to Britain at the time of the Industrial Revolution simply stated the fact that "I have seen production increasing while enjoyments were diminishing. The mass of the nation here, no less than philosophers, seem to forget that the increase of wealth is not the end in political economy, but its instrument in procuring the happiness of all." When one is caught in the turbulence of a strategic inflection point, the sad fact is that instinct and judgment are all one has got to guide oneself through. Among the many organizations of the poor workers of that time, trade unions were viewed suspiciously and their leaders were dealt with severely by the authorities. So the trade unions converted themselves into charitable organizations whose main objectives were to work for the furtherance of the interests of the poor workers. Many trade unions worked in the camouflage of such charitable societies. Incidently the Rochdale Equittable Pioneers Society, an organization formed by a few workers came into existence at that time. They started a consumer store. Though it was a very humble beginning, the envisagers of this enterprise always had kept a vision to fulfill, and therefore they decided that the store should run on a certain plan which they recorded in writing.

The Rochdale plan

The Rochdale plan consisted of two sections; The long term plan and the short term plan. The four points of short term programme were

1. Open membership
2. Democratic government
3. Dividend in proportion to purchases
4. Limited interest on share capital

The succeeding points were formulated with reference to the working of co-operative stores. They were

5. Market price to be charged
6. No credit to be allowed
7. Pure and unadulterated goods to be supplied
8. Portion of profits to be set aside for education

Pioneers' advice to the members

The Rochdale pioneers embodied the above principles in the advice which they gave to the members of their own society and those of other similar societies. These pieces of advice have been reproduced by Miss Catherine Web in her book "Industrial Co-operation" as follows.

1. Procure the authority and protection of law by enrolment.
2. Let integrity, intelligence, and ability be indispensable qualifications in the choice of officers and managers and not wealth or distinction.
3. Let each member have only one vote. Make no distinction as regards the amount of wealth any member may contribute.
4. Let majorities rule in all matters of government.
5. Look well after the money matters. Punish fraud when duly established by the immediate expulsion of the defrauder.
6. Put your goods as much as possible in the first markets or, if you have the produce of your industry to sell, contrive if possible to sell it in the last.
7. Never depart from the principle of buying and selling for ready money.
8. For the sake of security always have the accounted value of the "fixed stock" at least one fourth less than its marketable value.
9. Let members take care that accounts are properly audited by men of their own choosing.
10. Let committees of management always have the authority of members before taking any important or expensive step.
11. Do not count opposition or publicity, nor fear it when it comes.
12. Choose only those for your leaders whom you can trust, and then give them your confidence.

The Rochdale Pioneers Equittable Society had executed these plans and it turned out to be a great success appreciated by the whole world as the most successful among the first ventures of Co-operative Movement. But it cannot be assumed that the Movement is the natural evolution of such stores. Personalities such as Robert Owen, who is known as the father of Co-operative Movement have contributed much to the growth and development of the Movement.

Robert Owen

Robert Owen (1771-1858), was a British utopian socialist. Born on May 14, 1771, in Newtown, Wales, Owen was the youngest son of a village postmaster. At the age of nine he was apprenticed to a draper's shop, and he quickly gained knowledge of fabrics. By the time he was 18 he had managed to save and borrow for investment in the manufacture of textile machinery. Two years later, by bluff and pluck, he obtained the position of manager in a Manchester textile mill. In 1799 he bought factory holdings in New Lanark, Scotland, marrying the seller's daughter in the bargain.

New Lanark gained international fame when Owen's experiments in enhancing his workers' environment resulted in increased productivity and profit. Owen had become convinced that the advancement of humankind could be furthered by the improvement of every individual's personal environment. Character, he reasoned, was molded by circumstances; improved circumstances would lead to goodness. This is known as the doctrine of circumstances. The environment at New Lanark reflected this philosophy. In 1825, to advance his theories concerning human labor as the "natural standard of value," he purchased 8100 hectares (20,000 acres) of land in Illinois and Indiana of the United States of America as a site for a model communal village, New Harmony. The volunteer population for this experiment, however, was assembled all too hastily, and despite Owen's periodic visits to restore the initial enthusiasm, adherence to the communal constitution was soon abandoned. By 1828 New Harmony had been reduced to a travesty of its utopian ideal, and Owen sold the land at a loss of four-fifths of his total fortune. Although he later contemplated other such projects, they never came to fruition.

Owen's fame led him to meet many important people. This enabled him to convey his ideas, many of which were viewed with suspicion or indifference, to such personages as Queen Victoria of England, Grand Duke Nicholas of Russia, President Antonio López de Santa Anna of Mexico, and President Andrew Jackson of the United States. In later years Owen frequently participated in socialist congresses, and he wrote extensively. His Book of the New Moral World (written in seven parts between 1826 and 1844) contains the most complete statement of his doctrines. In 1833 Owen helped found the first British trade union, which soon failed. His ideas, however, bore fruit in the international cooperative movement, launched at Rochdale, England, in 1844. Owen died on November 17, 1858, in his hometown, Newtown. To get an acquaintance with the ideas of Robert Owen one of his articles is reproduced hereunder.

From Revolution in the Mind and Practice of the Human Race

On Social Reorganization

By Robert Owen

The universal permanent government, constitution, and code of laws, based on the unchanging laws of nature, for the world, in which there is but one real interest for all its population, wherever situated: and also for each state or nation separately, until they shall have acquired the knowledge and wisdom to unite in federative union.

Introduction

The period for introducing the permanent rational system of society, based on the ascertained laws of nature, for remodelling the character of man, and for governing the population of the earth in unity, peace, progressive improvement, and happiness, is rapidly approaching, and no human power can long resist the change.

The governments of the world will, therefore, soon be compelled, in their own

defence, to adopt this superior system, to prevent their being involved in anarchy, war, and ruin.

This change will root up and utterly destroy the old vicious and miserable system of ignorance, poverty, individual competition, and contests, and of national war, throughout the world; and will introduce, in place thereof, the rational system of society, in which competition, strife, and wars, will cease for ever; and all will be trained, from infancy, solely to promote each other's happiness.

This system can be the best commenced by convincing governments of the truth of the principles on which it is founded. There must be also a sufficient number of individuals instructed to acquire its genuine spirit of charity, affection, and philanthropy for man over the world; and taught the best mode of applying it to practice. They must likewise possess patience and perseverance, to overcome all the obstacles which the prejudices arising from ignorance, will oppose to their progress; and, above all, they must be united, have full confidence in each other, and be directed by one heart and one mind.

It is now deserving of the most serious consideration, that under the irrational system of society, hitherto alone known, and devised in opposition to nature, almost all the external circumstances formed by man, are of a vicious or inferior character; but that, under the proposed rational system, formed in accordance with nature, all the circumstances under human control will be of a good and superior character.

Also, that under the existing religious, political, commercial, and domestic arrangements of Great Britain, 250 individuals cannot be supported in comfort upon a square mile of land: while under the proposed system, with much less labour and capital than are now employed, 500 may be immediately supported in abundance; and in a few years after the new arrangements shall have been matured, 1,000, 1,500, and probably, without any additional new discoveries, 2,000 individuals, may be so supported upon every square mile of land of an average quality.

Such will be found to be the difference between the rational system of society, based on the unchanging laws of human nature, and formed in accordance with them, compared with a system based on falsehood, and constructed in direct opposition to the ascertained laws of humanity.

Under the latter, the earth is gradually approaching toward a pandemonium; while under the former, it will rapidly advance, without retrogression, toward a terrestrial paradise, for the creation of which Nature has now provided the most ample materials.

Duties of Government

A rational government will attend solely to the happiness of the governed; to attain which it will ascertain what human nature is—what are the laws of its organization and existence, from birth to death—what is necessary for the happiness of a being so formed and matured—what are the best means to attain those requisites, and to secure

them permanently for all the governed.

It will devise and execute the arrangements by which the conditions essential to human happiness shall be fully and permanently obtained for all the governed; and its laws will be few, easy to be understood by all the governed, and perfectly in unison with the laws of human nature.

What Human Nature Is

Human nature in each individual is created, with its organs, faculties, and propensities, of body and mind, at birth, by the incomprehensible Creating Power of the universe; all of which qualities and powers are necessary for the continuation of the species, and the growth, health, progress, excellence, and happiness, of the individual and of society; and these results will always be attained when, in the progress of nature, men shall have acquired sufficient experience to cultivate these powers, physical and mental, in accordance with the natural laws of humanity.

But they may be misunderstood, misdirected, and perverted, by the inexperience of society, and thus made to produce crime and misery, instead of goodness and happiness.

Through want of knowledge in our early ancestors and their descendants, this perversion of man's natural faculties has, so far, been universal among all people, through all past time.

The natural organization of each individual, from birth, may be, therefore, rightly or wrongly directed by society; and, from misconception of its powers, it has been, hitherto, wrongly directed. It has now, in the progress of nature, for the first time in man's existence, to be rightly directed through the life of all.

Human nature, its organization and existence, are, consequently, a compound of natural faculties at birth, which may from that period be well or ill directed by society. Thus, nature and society are alone responsible for the character and conduct of everyone.

Conditions Requisite for Human Happiness

1st. To have a good organization at birth, and to acquire an accurate knowledge of its organs, faculties, propensities, and qualities.

2nd. To have the power of procuring at pleasure whatever is necessary to preserve the organization in the best state of health, and to know the best mode by which to produce and distribute them.

3rd. To receive from birth the best cultivation of our natural powers—physical, mental, moral, and practical—and to know how to give this training and education to others.

4th. To have the knowledge, the means, and the inclination, to promote continually, and without exception, the happiness of our fellow beings.

5th. To have the inclination and means to increase continually our stock of

knowledge.

6th. To have the power of enjoying the best society—and more especially of associating, at pleasure, with those for whom we feel the greatest regard and affection.

7th. To have the means of travelling at pleasure, with pleasure.

8th. To have full liberty to express our thoughts upon all subjects.

9th. To have the utmost individual freedom of action, compatible with the permanent good of Society.

10th. To have the character formed for us to express the truth only, in look, word, and action, upon all occasions—to have pure charity for the feelings, thoughts, and conduct of all mankind—and to have a sincere goodwill for every individual of the human race.

11th. To be without superstition, supernatural fears, and the fear of death.

I2th. To reside in a society well situated, well organized, and well governed, whose laws, institutions, and arrangements, are all in unison with the laws of human nature; and to know the best means by which, in practice, to combine all the requisites to form such society.

Universal Constitution and Code of Laws

I. Providing for and Educating the Population

LAW 1. Everyone shall be equally provided, through life, with the best of everything for human nature, by public arrangements; which arrangements shall be also made to give the best known direction to the industry and talents of everyone.

LAW 2. All shall be trained and educated, from birth to maturity, in the best manner known at the time.

LAW 3. All shall pass through the same general routine of education, domestic teaching, and employment.

LAW 4. All children, from their birth, shall be under the especial care of the Associated Society or Township in which they are born; but their parents shall have free access to them at all times.

LAW 5. All children in the same Township shall be trained and educated together, as children of the same family; and shall be early taught a knowledge of their nature—the most important of all knowledge.

LAW 6. Every individual shall be encouraged to express his feelings and convictions, as he is compelled by the laws of his nature to receive them; or, in other words, to speak the truth only upon all occasions.

LAW 7. Both sexes shall have equal education, rights, privileges, and personal liberty; their marriages will arise from the general sympathies of their nature, well understood, and uninfluenced by artificial distinctions.

II. Liberty of Mind or Conscience

LAW 8. Everyone shall have equal and full liberty to express the dictates of his

conscience on religious and all other subjects.

LAW 9. No one shall have any other power than fair and friendly argument to control the opinions or belief of another.

LAW 10. No praise or blame, no merit or demerit, no reward or punishment, shall be awarded for any opinions or belief.

LAW 11. But all, of every religion, shall have equal right to express their opinions respecting the Incomprehensible Power which moves the atom and controls the universe; and to worship that power under any form or in any manner agreeable to their consciences—not interfering with others.

Raiffeisen and Shultz Delitzch

In Germany Raiffeisen had started rural banks as business associations with social ideal. Shultz Delitzch formed urban banks also. These institutions were started as a gestures of charity towards the poor. Being administrators of the local bodies, both of them felt it their duty to assist the poor working class. Raiffeisen even thought it is his religious duty to serve people unto the last. However they upheld the principle "each for all and all for each." They gave emphasis to credit activities and always made arrangements for outside assistance. Their attempt was to liberate agriculturists and workers from the grip of indebtedness and to provide them with the necessities of their daily life, by teaching them the lessons of self-help and thrift. Thus the modern Co-operative Movement has originated and flourished in the hands of the poor and deserted in the lands of The United Kingdom and Germany. Gradually federal and apex organisations were formed and the ideal of Co-operation became established and the Movement spread across continents. The need of an international organization was felt inevitable and the International Co-operative alliance was formed in 1895.

International Cooperative Alliance

World membership in the International Cooperative Alliance (ICA) gives some idea of the size of the Cooperative Movement today. In the mid-1980s the ICA recorded a membership of about 355 million individuals. Affiliated organizations existed in some 70 countries, comprising societies of various types, including consumer, agricultural, fishery, productive and artisanal, building and housing, and credit cooperatives. The greatest concentration of membership was in Europe; next in rank was Asia. Through the alliance, mutual trading and financial relations are facilitated between cooperative organizations in various countries engaged in wholesaling, marketing, production, banking, insurance,etc.

The policy of the ICA has two principal aims: It seeks to link the cooperative movements of various countries so that they form one expanding economic system, and it seeks to create a world environment favorable to cooperation by removing causes of economic strife and obstacles to mutual understanding and permanent peace.

The ICA is the largest nongovernmental organization with a voice in the United Nations.

Article I of the ICA Rules mentions, "the ICA in continuation of the work of Rochdale Pioneers seeks to substitute for the profit-making regim, a co-opersative system organized in the interest of the whole community and based upon mutual self-help."

Once the International Co-operative Alliance has been formed, there arose a great enthusiasm in defining Co-operation and in developing its principles and philosophy. Some of the noteworthy definitions of Co-operation are given below.

Definitions of Co-operation

C.R. Fay

Co-operation is one way of conducting certain parts of the ordinary business of life.

Co-operation is an association for the purpose of joint trading, originating among the weak and conducted always in an unselfish spirit on such terms that all who are prepared to assume the duties of membership may share its rewards in proportion to the degree in which they make use of the association.

H. Calvert

Co-operation is a form of organization in which persons voluntarily associate together as human beings on the basis of equality for the promotion of the economic interests of themselves.

Sir M.L. Darling

Co-operation is morality applied to business.

Co-operation is something more than a system. It is a religion applied to business. It is a gospel of self-sufficiency and service.

Vaikunt Lal Mehta

Co-operation is only one aspect of a vast movement which promotes voluntary associations of individuals having common needs who combine towards the achievement of common economic needs.

Dr. K.N. Katju

Co-operation is self help as well as mutual help. It is a joint enterprise of those who are not financially strong and cannot stand on their legs and, therefore, come together not with a view to getting profits but to overcome disability arising out of want of adequate financial resources and thus better their economic condition.

Maclagan Committee

The theory of Co-operation is, very briefly, that an isolated and powerless man can, by association with others and by moral development and mutual support, obtain, in his degree, the material advantage available to the wealthy and powerful persons, and thereby develop himself to the fullest extent of his natural abilities.

self-reliance is fostered, and it is from the interaction of these influences that it is hoped to attain the effective realization of the higher and more prosperous standard of life which has been characterized as "better business, better farming and better living."

Mr. M.T. Herrick

Co-operation is the Act of persons, voluntarily united, utilizing reciprocally their own forces, resources or both under their arrangement to their common profit or loss.

Raiffeison

Co-operation is a system where people work one for all and all for one.

Sir Horace Plunkett

Co-operation is "better farming, better business and better living

De Soyza

Co-operation is a very adaptable instrument - and it is the one economic method that applies in all circumstances.

However none of these definitions remain undisputed. The Universally accepted and authentic definition is that of the International Co-operative Alliance as approved by its General Assembly held on 23 September, 1995 at new century hall, Manchester, which is given elsewhere in this chapter along with Co-operative Principles.

CO-OPERATIVE PRINCIPLES

Rochdale Principles

The General Assembly of the International Co-operative Alliance in 1937 held at Paris formulated the following Co-operative Principles and named them as the Rochdale Principles, of which the first four were termed as essential and the other three as non-essential or directive.

1.Open membership
2.Democratic control
3.Limited interest on capital
4.Distribution of surplus to members in proportion to their transactions.
5.Political and religious neutrality.
6.Cash trading
7.Promotion of education

Reformulated Principles of Co-operation

In October 1964, the Central Committee of the International Co-operative Alliance set up a commission of five members and asked it specifically to ascertain how far the Principles of Rochdale were observed then, and the reasons for non-observance. The commission consisted of the following members

1.Mr.A.Bonnar, Senior Tutor, Co-operative College, United Kingdom
2.Mr.Howard A.Cowden, Chairman, International Co-operative Petroleum Association, United States of America.

3.Prof. Dr. R.Henzler, Director, Institute of Co-operation, Hamburg University, Germany.

4.Prof. I.Kistanov, Professor of Economics and Co-operation, Moscow Institute of Peoples' Economy, U.S.S.R.

5.Prof. D.G.Karve, Deputy Governer of the Reserve Bank of India, India.

Prof. Karve was elected by the other members at the Commissions first meeting held in London in December 1965. Due to ill-health, Prof. I.Kistanov was substituted by Prof. G.Blank, Head of the Department of Economics, Moscow Co-operative Institute, Moscow, U.S.S.R.. After elaborate study the Commission finalized its unanimous report in February 1966 and submitted the same before the Twenty Third Congress of the International Co-operative Alliance held in Vienna in September 1966.

Prof: D.G. Karve stated when he addressed the 23rd ICA Congress on 5-9-1966 at Vienna

"All co-operators, everywhere, concurred in the basic philosophy, or aims, of co-operation as formulated by Rochdale Pioneers, viz, creation of a co-operative working community in which all men have an equal status, and in which no one benefits at the cost of another; secondly, all of them entertained the highest regard for the rules and methods of Rochdale, which they try to follow to the greatest possible extent; and thirdly, all of them have found it necessary, in some respect or other, to recast one or more of these rules and practices so as to enable them to realize more fully the aims of the Co-operative Movement in their own peculiar circumstances. In fact, the Commission found that these co-operative bodies, which were unwilling or slow to adapt themselves to the requirements of the new situation, have suffered avoidable set-backs." The Commission was of the opinion that some of the Rochdale Principles were fundamental truths, but some others were evolutionary and so changeful. They were true or valid in some context but not in another. They also were truths, but relative truths, not absolute truths - i.e. not truths, independent of time and place.

The principles recommended by the Commission were called the Reformulated Principles of Co-operation and were approved by the International Co-operative Alliance. They are the following.

1.Voluntary and open membership

Membership of a co-operative society should be voluntary and available without artificial restriction of any social, political and religious discrimination to all persons who can make use of its services and are willing to accept the responsibilities of membership.

2.Democratic Control

Co-operative societies are democratic organisations. Their affairs should be administered by persons elected or appointed in a manner agreed by the members and agreeable to them. Members of primary societies should enjoy equally the right of

voting (one member one vote) and participation in decisions affecting their societies. In other than primary societies, the administration should be conducted on a democratic basis in a suitable form.

3.Limited interest on share capital

Share capital should only receive a strictly limited rate of interest, if any.

4.Patronage dividend

Surplus or saving, if any, arising out of the operations of a society belong to the members of that society and should be distributed in such a manner as would avoid one member gaining at the expense of others. This may be done

(a)By provision for development of the business of co-operatives.

(b)By provision of common services, or by distributing it among the members in proportion to their transactions with the society.

5. Promotion of education

All co-operative societies should make provision for the education of their members, officers and employees and the general public in the principles and technics of co-operation, both economic and democratic.

6. Mutuality

All co-operative organizations in order to best serve the interests of their members and their committees should actively co-operate in every practical way with other co-operatives at local, national and international levels.

Professor Karve has made it clear many times that the "Maam Viddhi" of Co-operative Principles is the remark in the fourth principle "avoid one member gaining at the expense of others."

NEW CO-OPERATIVE PRINCIPLES

Even though the reformulated principles were greatly appreciated throughout the world, the International Co-operative Alliance felt the need of a further revision of these principles. ICA General Assembly held on 23 September, 1995 at new century hall, Manchester, adopted the New Co-operative Principles recommended by the ICA Board of Directors and the ICA Congress after global study and review by a committee headed by Pro. Lan Mcpherson from Canada.

The process started with a paper presented by Lars Marcus, then President of ICA at the Congress held in 1988 at Stockholm. Sven Ake Book, a Co-operative specialist from Sweden was detailed to undertake a research into Co-operative values and principles in the context of modern global environment of Co-operatives who presented his report in 1992 ICA Congress in Tokyo. The General Assembly appointed a committee, headed by Pro. Lan Mcpherson for a review of Co-operative Principles. The committee found out a definition, identified the co-operative values and formulated the new Principles. They are given below.

Definition

"A Co-operative is an autonomous association of person united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise."

Values

Co-operatives are based on the value of the self-responsibility, democracy, equality, equity and solidarity. In the tradition of their founders, Co-operative members believe in the ethical values of honesty, openness, social responsibility and caring for others.

Principles

The Co-operative Principles are guidelines by which Co-operatives put their values into practice.

First Principle: VOLUNTARY AND OPEN MEMBERSHIP

Co-operatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of membership, without genderm, social, racial, political or religious discrimination.

Second Principle: DEMOCRATIC MEMBER CONTROL

Co-operatives are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary Co-operatives, members have equal voting rights (one member, one vote), and Co-operatives at other levels are also organized in a democratic manner

Third Principle: MEMBER ECONOMIC PARTICIPATION

Members contribute equally to, and democratically control, the capital of their Co-operative. At least part of that capital is usually the common property of the Co-operatives, members usually received limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any of the following purposes: developing their Co-operative, possibly by setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the Co-operative; and supporting other activities approved by the membership

Fourth Principle: AUTONOMY AND INDEPENDENCE

Co-operatives are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including Governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their Co-operative autonomy.

Fifth Principle: EDUCATION, TRAINING AND INFORMATION

Co-operatives provide education and training for their members, elected representatives, managers, and employees, so they can be elected representatives, managers, and employees and can contribute effectively to the development of their Co-operatives. They inform the general public particularly young people and opinion leaders - about the nature and benefits of Co-operation.

Sixth Principle: COOPERATION AMONG CO-OPERATIVES

Co-operatives serve their members most effectively and strengthen the Co-operative movement by working together through local, national, regional and international structures.

Seventh Principle: CONCERN FOR COMMUNITY

Co-operatives work for sustainable development of their communities through policies approved by their members.

THE INDIAN SCENARIO

Sir Frederrick Nicholson

Ever since the first struggle for independence has been proved to be fruitless, there arose a number of enthusiastic personalities who were engaged in developing an infrastructure to support the ordinary Indian, to influence his way of life in all aspects. Each and every one the social evils were identified and well marked. Education, Philosophy, Religion, Science, Technology, Agriculture, Trades and Practices, Legislative and other Laws, Administration and Social Reformation, among others showed great advancement. But poverty and indebtedness remained the same. Both the Government and the reformationists found this situation embarassing. The reformationists promoted the formation of small self-help groups, while as the Government tried to consolidate such activities by providing for Taccavi loans and by initiating legislation. The issue of Government loans, though created an awareness, was evaluated to be of not much help. In 1893 the then Government of Madras, a province which was one of the most completely ruralised and economically depressed in British India, sent Sir Frederrick Nicholson, an able administrator to study the system of institutionalized rural credit on the continent of Europe. Naturally he preferred England for the purpose, but due to the lack of literature on the subject, he ventured to tour the countries of Europe such as Switzerland, France, Italy and Germany and got first hand knowledge on the subject. Since he was pre-accupied with the idea of Government aid, he found that Reiffeisen type of rural societies had any relevence to the Indian situation. So he named his report with the remark ***"Find Reiffeisen."***

Sir Frederrick Nicholson was aware of the resourcefullness of the Indian farmers

and also the fact that the objective of his study was a reformation of rural credit in India and thereby the promotion of agricultural development through which the burden of indebtedness could be relieved considerably. He envisaged a comprehensive and constructive scheme of co-operative credit. Besides making the simple recommendations about registration and audit of societies he went on to suggest a number of positive measures such as the adoption of a State policy to assist the societies either by share capital or by guarantee. He thought that a mark of governmental recognition would enhance the credit of the societies with depositors and clients. Once his report has been submitted in 1895, the Co-operative Movement in India gained acceleration. Sir Frederrick Nicholson is honoured as the father of Indian Co-operation.

Even before Nicholson's study many attempts had been taken place to form and register self-help groups under Indian Companies Act. Mr. Dupernicks, Mr.Mclagan and Mr. Leon were some of the pioneers in this regard. such experimentations lost their relevence, since the enactment of Co-operative Credit Societies Act of 1904.

Co-operative Legislation in India

In continuance to Frederrick Nicholson Report, the then Government of British India appointed a committee headed by Sir Edward Law, with Mr. Dupernicks and Frederrick Nicholson as members to prepare a draft of an Act on the working of co-operative societies. The basic idea of this Act was to create autonomous, self-reliant co-operatives of Reiffeisen and Rochdale type in the long run and to substitute the lacking technical knowledge and initiatives of the rural people for a transition period by the know-how of officials of a specialised Governmental agency headed by a Registrar of Co-operative Societies. A glance through the preambles of the various Co-operative Societies Acts shall be helpful in understanding the objectives of co-operative legislation in India.

THE CO-OPERATIVE CREDIT SOCIETIES ACT
(INDIA ACT X OF 1904)
Passed on 25th March 1904

the grant of long term loans to owners of land or other immovable property, to enable them to discharge their debts; to carry out agricultural improvements, to acquire land for the formation of economic holdings and other like purposes and thereby to promote thrift and self help among them.

And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act.

It is hereby enacted as follows:-

THE CO-OPERATIVE SOCIETIES ACT (Act 11 of 1912)

An Act to amend the law relating to Co-operative Societies

Whereas it is expedient further to facilitate the formation of Co-operative Societies for the promotion of thrift and self help among agriculturists, artisans and persons of limited means, and for that purpose to amend the law relating to Co-operative Societies; it is hereby enacted as follows:-

THE MADRAS COOPERATIVE SOCIETIES ACT
Madras Act VI of 1932
Passed by the Legislative Council, Madras

Received the assent of the Governor on the 9th May 1932 and that of the Governor -General on the 16th June 1932. The assent of the Governor General was first published in the "Fort St. George Gazette" on the 5th July 1932

An Act to consolidate and amend the law relating to Co-operative Societies in the State of Madras.

Whereas it is expedient further to facilitate the formation and working of Co-operative Societies for the promotion of thrift, self help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to Co-operative Societies in the State of Madras.

And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act; it is hereby enacted as follows

THE MADRAS CO-OPERATIVE LAND MORTGAGE BANKS ACT
(ACT X of 1934)

An Act to facilitate the working of Co-operative Land Mortgage Banks in the State of Madras

Whereas it is expedient to supplement the provisions of the Madras Co-operative Societies Act 1932, in order to facilitate the working of Co-operative Land Mortgage Banks in the State of Madras with a view to provide for the grant of long term loans to owners of land or other immovable property, to enable them to discharge their debts; to carry out agricultural improvements, to acquire land for the formation of economic holdings and other like purposes and thereby to promote thrift and self help among them.

And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act.

It is hereby enacted as follows:-

THE COCHIN CO-OPERATIVE LAND MORTGAGE ACT (XXV of 1111)
Passed by his Highness the Maharaja on the 30th day of Medam 1111 corresponding to the 12th day of May 1936

Whereas it is expedient to supplement the provisions of the Cochin

Co-operative Societies Act, IV of 1088, in order to facilitate the working of a Co-operative Land Mortgage Bank in the State, with a view to provide for the grant of long-term loans to the owners of land or other immovable property in the State, to enable them to discharge their debts, to carry out the agricultural improvements, to acquire land for the formation of economic holdings and other like purposes and thereby to promote thrift and self help among them;

It is hereby enacted as follows:-

THE TRAVANCORE CO-OPERATIVE SOCIETIES ACT, 1112 ME

Whereas it is expedient further to facilitate the formation and working of Co-operative societies for the promotion of thrift, self help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to have a uniform law for the State of Travancore relating to Co-operative Societies;

It is hereby enacted as follows:-

THE COCHIN CO-OPERATIVE SOCIETIES ACT (ACT XXVI OF 1113)

Whereas it is expedient further to facilitate the formation and working of Co-operative Societies for the promotion of thrift, self help and mutual aid among agriculturists and other persons with common economic needs, so as to bring about better living, better business and better methods of production, and for that purpose to consolidate and amend the law relating to Co-operative Societies in Cochin State, it is hereby enacted as follows:-

MULTI UNIT CO-OPERATIVE SOCIETIES ACT (ACT No.VI OF 1942)

The following Act of the Indian Legislature received the assent of the Governor-General on the 2nd March 1942 and is hereby promulgated for general information.

An Act to provide for the incorporation, regulation, and winding up of Co-operative Societies with objects not confined to one province.

Whereas it is expedient to provide for the incorporation, regulation and winding up of Co-operative Societies with objects not confined to one province, it is hereby enacted as follows:-

THE TRAVANCORE-COCHIN CO-OPERATIVE SOCIETIES ACT,1951 (ACT X OF 1952)

Whereas it is expedient further to facilitate the formation and working of Co-operative societies for the promotion of thrift, self help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to have a uniform law for the State of Travancore-Cochin relating to Co-operative Societies;

It is hereby enacted as follows:-

HUMAN RIGHTS

International Cooperative Alliance and the United Nations co-operate in the furtherance of the human rights. Both the organizations appreciate each other and uphold the dignity of man as their supreme ideal. Human Rights can be defined as the right to live with human dignity. It is not the mere animal existence. Human dignity represents the hopes and aspirations of a human being of the period. Though the standards of human dignity vary, the universal principles of human dignity are thought to be based on liberty, freedom, equity, equality, justice and fraternity. The most important documents of human rights are reproduced here for ready reference.

The following is an extract of Magna Carta.

PRINCIPAL PROVISIONS OF THE MAGNA CARTA OF 1215

John, by the grace of God King of England, Lord of Ireland, Duke of Normandy and Aquitaine, Count of Anjou, to the archbishops, bishops, abbots, earls, barons, justiciars, foresters, sheriffs, reeves, servants, and all bailiffs and to his faithful people, greeting:

Know that by the suggestion of God and for the good of our soul and of those of all our predecessors and of our heirs, the honor of God and the exaltation of holy Church, and for the improvement of our kingdom, by the advice of our venerable fathers, Stephen, archbishop of Canterbury, primate of all England and cardinal of the holy Roman Church, Henry, archbishop of Dublin, William of London, Peter of Winchester, Jocelyn of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, and Benedict of Rochester, bishops; of Master Pandulf, subdeacon and member of the household of the lord pope, of Brother Aymeric, master of the Knights of the Temple in England; and of the noblemen William Marshall, earl of Pembroke, William, earl of Salisbury, William, earl of Warren, William, earl of Arundel, Alan of Galloway, constable of Scotland, Warren Fitz-Gerald, Peter Fitz-Herbert, Hubert de Burgh, steward of Poitou, Hugh de Nevil, Matthew Fitz-Herbert, Thomas Bassett, Alan Bassett, Philip d'Albini, Robert de Roppelay, John Marshall, John Fitz-Hugh, and others of our faithful.

1. In the first place, we have granted to God, and by this our present charter confirmed for us and our heirs forever, that the English church shall be free, and shall hold its rights entire and its liberties uninjured; and that we will that it should thus be observed is shown by this: that the freedom of elections, which is considered to be most important and especially necessary to the English church, we, of our pure and spontaneous will, granted, and by our charter confirmed, before the contest between us and our barons had arisen, and we obtained a confirmation of it by the lord pope Innocent III, which we will observe, and which we will shall be observed in good faith by our heirs forever.

We have granted, moreover, to all free men of our kingdom, for us and our heirs forever, all the liberties written below, to be had and holden by themselves and their heirs from us and our heirs.

2. If any of our earls or barons, or others holding from us in chief by military service, shall have died, and when he has died his heir shall be of full age and owe relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an earl, for the whole barony of an earl a hundred pounds; the heir or heirs of a baron, for a whole barony, a hundred pounds; the heir or heirs of a knight, for a whole knight's fee, a hundred shillings at most; and who owes less, let him give less, according to the ancient custom of fiefs....

5. The custodian [of the lands of a minor], moreover, so long as he shall have the custody of the land, must keep up the houses, parks, warrens, fish ponds, mills, and other things pertaining to the land, from the proceeds of the land itself; and he must return to the heir, when he has come to full age, all his land, furnished with plows and implements of husbandry, according as the time of wainage requires and as the proceeds of the land are able reasonably to sustain....

7. A widow, after the death of her husband, shall have her marriage portion and her inheritance immediately and without obstruction....

8. No widow shall be compelled to marry so long as she prefers to live without a husband, provided she gives security that she will not marry without our consent, if she holds from us, or without the consent of her lord from whom she holds, if she holds from another....

12. No scutage or aid shall be imposed in our kingdom save by the common council of our kingdom, except for the ransoming of our body, for the making of our oldest son a knight, and for once marrying our oldest daughter; and for these purposes it shall be only a reasonable aid; in the same way it shall be done concerning the aids of the city of London.

13. And the city of London shall have all its ancient liberties and free customs, as well by land as by water. Moreover we will and grant that all other cities and boroughs and villages and ports shall have all their liberties and free customs.

14. And for holding a common council of the kingdom concerning the assessment of an aid otherwise than in the three cases mentioned above, or concerning the assessment of a scutage, we shall cause to be summoned the archbishops, bishops, abbots, earls, and greater barons by our letters under seal; and, besides, we shall cause to be summoned generally, by our sheriffs and bailiffs, all those who hold from us in chief, for a certain day, at the end of at least forty days, and for a certain place; and in all the letters of that summons we will state the cause of the summons, and when the summons has thus been given the business shall proceed on the appointed day, on the advice of those who shall be present, even if not all of those who were summoned have come.

15. We will not grant to any one, moreover, that he shall take an aid from his free men, except for ransoming his body, for making his oldest son a knight, and for once marrying his oldest daughter; and for these purposes only a reasonable aid shall be taken....

20. A free man shall not be fined for a small offense, except in proportion to the gravity of the offense; and for a great offense he shall be fined in proportion to the magnitude of the offense, saving his freehold; and a merchant in the same way, saving his merchandise; and the villein shall be fined in the same way, saving his wainage, if he shall be at our mercy; and none of the above fines shall be imposed except by the oaths of honest men of the neighborhood....

28. No constable or other bailiff of ours shall take any one's grain or other chattels without immediately paying for them in money, unless he is able to obtain a postponement at the good will of the seller.

29. No constable shall require any knight to give money in place of his ward of a castle if he is willing to furnish that ward in his own person, or through another honest man if he himself is not able to do it for a reasonable cause; and if we shall lead or send him into the army he shall be free from ward in proportion to the amount of time which he has been in the army through us.

30. No sheriff or bailiff of ours, or any one else, shall take horses or wagons of any free man, for carrying purposes except on the permission of that free man.

31. Neither we nor our bailiffs will take the wood of another man for castles, or for anything else which we are doing, except by the permission of him to whom the wood belongs....

39. No free man shall be taken, or imprisoned, or dispossessed, or outlawed, or banished, or in any way injured, nor will we go upon him, nor send upon him, except by the legal judgment of his peers, or by the law of the land.

40. To no one will we sell, to no one will we deny or delay, right or justice.

41. All merchants shall be safe and secure in going out from England and coming into England, and in remaining and going through England, as well by land as by water, for buying and selling, free from all evil tolls, by the ancient and rightful customs, except in time of war, or if they are of a land at war with us; and if such are found in our land at the beginning of war, they shall be attached without injury to their bodies or goods, until it shall be known from us, or from our principal justiciar, in what way the merchants of our land are treated who shall be then found in the country which is at war with us; and if ours are safe there, the others shall be safe in our land....

47. All forests which have been afforested in our time shall be disafforested immediately; and so it shall be concerning river banks which in our time have been fenced in....

51. And immediately after the reëstablishment of peace we will remove from the kingdom all foreign-born soldiers, crossbowmen, servants, and mercenaries who have come with horses and arms for the injury of the realm.

52. If any one shall have been dispossessed or removed by us, without legal judgment of his peers, from his lands, castles, franchises, or his right, we will restore them to him immediately; and if contention arises about this, then it shall be done according to the judgment of the twenty-five barons, of whom mention is made below concerning the security of the peace. Concerning all those things, however, from which any one has been removed, or of which he has been deprived, without legal judgment of his peers, by King Henry our father, or by King Richard our brother, which we have in our hand, or which others hold, and which it is our duty to guarantee, we shall have respite till the usual term of crusaders; excepting those things about which the suit has been begun or the inquisition made by our writ before our assumption of the cross. When, however, we shall return from our journey, or if by chance we desist from the journey, we will immediately show full justice in regard to them....

61. Since, moreover, for the sake of God, and for the improvement of our kingdom, and for the better quieting of the hostility sprung up lately between us and our barons, we have made all these concessions; wishing them to enjoy these in a complete and firm stability forever, we make and concede to them the security described below; that is to say, that they shall elect twenty-five barons of the kingdom, whomsoever they will, who ought with all their power to observe, hold, and cause to be observed, the peace and liberties which we have conceded to them, and by this our present charter confirmed to them; ...

63.... It has been sworn, moreover, as well on our part as on the part of the barons, that all these things spoken of above shall be observed in good faith and without any evil intent. Witness the above-named and many others. Given by our hand in the meadow which is called Runnymede, between Windsor and Staines, on the fifteenth day of June, in the seventeenth year of our reign.

Though crude, the Magna Carta was one of the first attempts to give shape to the concepts of liberty and freedom. The next important human right charter is the Declaration of Rights of Man of the French National Assembly.

DECLARATION OF RIGHTS OF MAN AND OF THE CITIZEN, 1789

The representatives of the French people, organized as a National Assembly, believing that the ignorance, neglect, or contempt of the rights of man are the sole cause of public calamities and of the corruption of governments, have determined to set forth in a solemn declaration the natural, inalienable, and sacred rights of man, in order that this declaration, being constantly before all the members of the social body, shall remind them continually of their rights and duties; in order that the acts of the legislative power, as well as those of the executive power, may be compared at any moment with the objects and purposes of all political institutions and may thus be more respected; and, lastly, in order that the grievances of the citizens, based hereafter upon simple and incontestable principles, shall tend to the maintenance of the constitution

and redound to the happiness of all. Therefore the National Assembly recognizes and proclaims, in the presence and under the auspices of the Supreme Being, the following rights of man and of the citizen:

Article 1. Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good.

2. The aim of all political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.

3. The principle of all sovereignty resides essentially in the nation. No body nor individual may exercise any authority which does not proceed directly from the nation.

4. Liberty consists in the freedom to do everything which injures no one else; hence the exercise of the natural rights of each man has no limits except those which assure to the other members of the society the enjoyment of the same rights. These limits can only be determined by law.

5. Law can only prohibit such actions as are hurtful to society. Nothing may be prevented which is not forbidden by law, and no one may be forced to do anything not provided for by law.

6. Law is the expression of the general will. Every citizen has a right to participate personally, or through his representative, in its formation. It must be the same for all, whether it protects or punishes. All citizens, being equal in the eyes of the law, are equally eligible to all dignities and to all public positions and occupations, according to their abilities, and without distinction except that of their virtues and talents.

7. No person shall be accused, arrested, or imprisoned except in the cases and according to the forms prescribed by law. Any one soliciting, transmitting, executing, or causing to be executed, any arbitrary order, shall be punished. But any citizen summoned or arrested in virtue of the law shall submit without delay, as resistance constitutes an offense.

8. The law shall provide for such punishments only as are strictly and obviously necessary, and no one shall suffer punishment except it be legally inflicted in virtue of a law passed and promulgated before the commission of the offense.

9. As all persons are held innocent until they shall have been declared guilty, if arrest shall be deemed indispensable, all harshness not essential to the securing of the prisoner's person shall be severely repressed by law.

10. No one shall be disquieted on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law.

11. The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law.

12. The security of the rights of man and of the citizen requires public military forces. These forces are, therefore, established for the good of all and not for the personal advantage of those to whom they shall be intrusted.

13. A common contribution is essential for the maintenance of the public forces and for the cost of administration. This should be equitably distributed among all the citizens in proportion to their means.

14. All the citizens have a right to decide, either personally or by their representatives, as to the necessity of the public contribution; to grant this freely; to know to what uses it is put; and to fix the proportion, the mode of assessment and of collection and the duration of the taxes.

15. Society has the right to require of every public agent an account of his administration.

16. A society in which the observance of the law is not assured, nor the separation of powers defined, has no constitution at all.

17. Since property is an inviolable and sacred right, no one shall be deprived thereof except where public necessity, legally determined, shall clearly demand it, and then only on condition that the owner shall have been previously and equitably indemnified.

The Universal Declaration of Human Rights was prepared by the Commission on Human Rights of the Economic and Social Council (ECOSOC) of the United Nations, then headed by Eleanor Roosevelt, social activist and widow of United States president Franklin D. Roosevelt with French jurist and Nobel prize winner René Cassin as one of the members and the declaration's principal author. In 1950 the United Nations General Assembly adopted the declaration and proclaimed December 10, the anniversary of the 1948 adoption of the declaration, as Human Rights Day. In 1963 the General Assembly approved a part of the supplementary section on economic, social, and cultural rights that prohibited discrimination on grounds of race, color, or creed. This declaration was based on the "Four Freedoms" namely freedom of speech and expression, freedom of worship, freedom from want, and freedom from fear as declared by United States president Franklin D. Roosevelt on January 6, 1941, in his annual message to the Congress of the United States.

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Preamble

Whereas recognition of the inherent family is the foundation of freedom, justice and peace in the world dignity and of the equal and inalienable rights of all members of the human,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in

which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Everyone has the right to life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Ever since the Universal Declaration of Human Rights had come into existence, Nations both affiliated to the United Nations and those newly emerged showed great enthusiasm to incorporate these principles into their respective Constitutions. Our Nation was no exception.

The constitution of India has shown great reverence to uphold the various Human Rights by expressly incorporating these principles into it. Our great national leaders have shown the same interest in promoting Co-operatives as well as a remedial measure for the defense of these principles.

A few provisions of the Constitution of India having relevance to the Co-operative Laws and Human Rights are reproduced below.

CONSTITUTION OF INDIA

Preamble

We, The people of India, having solemnly resolved to constitute India into a *SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC* and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty sixth day of November, 1949, do *HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.*

PART III

FUNDAMENTAL RIGHTS

General

12. Definition :- In this part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

13. Laws inconsistent with or in derogation of the fundamental rights :- (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires;

(a) "Law includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

(b) "Laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, not-withstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

(4) Nothing in this articles shall apply to any amendment of this Constitution made under article 368.

14. Equality before law- The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth- (1) The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partially out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

16. Equality of opportunity in matters of public employment- (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services of the State in favour of the Scheduled Castes and the Scheduled Tribes which in the opinion of the State are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate

class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

17. Abolition of untouchability- "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

18. Abolition of titles- (1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

Right to Freedom

19. Protection of certain rights regarding freedom of speech, etc :- (1) All citizens shall have the right-

(a) To freedom of speech and expression;

(b) To assemble peaceably and without arms;

(c) To form associations or unions;

(d) To move freely throughout the territory of India;

(e) To reside and settle in any part of the territory of India; and

(f) xxxx

(g) To practice any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of Court, defamation or incitement to an offence

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes or prevent the State from making any law imposing, in the interests of the sovereignty an integrity of India or public order morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clause (d) and (e) of the said clause affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,-

(i) The professional or technical qualifications necessary for practising any profession or carrying on any accupation, trade or business, or

(ii) The carrying on by the State, or by a Corporation owned or controlled by the State of any trade, business, industry or service, whether to the exclusion complete or partial, of citizens or otherwise.

20. Protection in respect of conviction for offence :- (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness agaist himself.

21. Protection of life and personal liberty :- No person shall be deprived of his life or personal liberty except according to procedure established by law.

22. Protection against arrest and detention in certain cases :- (1) No person who is arrested shall be detained in custody without being informed, as soon as may be of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to Court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

(3) Nothing in clauses (1) and (2) shall apply

(a) To any person who for the time being is an enemy alien; or

(b) To any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless-

(a) An advisory board consisting of persons who are or have been or are qualified to be appointed as judge of a High Court was reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) Such persons is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any persons is detained in persuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such persons the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority consideres to be against the public interest to disclose.

(7) Parliament may by prescribe-

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) The maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) The procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

Right against exploitation

23. Prohibition of traffic in human beings and forced labour :- (1) Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compusory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste, or class or any of them.

24. Prohibition of employment of children in factories etc :- No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Right to freedom of Religion

25. Freedom of conscience and free profession, practice and propagation of Religion :- (1) Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law

(a) Regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice

(b) Providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus

Explanation :- (1) The wearing and carrying of Kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation :- (2) In sub clause (b) of clause (2) the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

26. Freedom to manage religious affairs :- Subject to public order, morality and health, every religious denomination or any section thereof shall have the right -

(a) To establish and maintain institutions for religious and charitable purposes;

(b) To manage its own affairs in matters of religion;

(c) To own and acquire movable and immovable property and

(d) To administer such property in accordance with law

27. Freedom as to payment of taxes for promotion of any particular religion :- No person shall be compelled to pay any taxes the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions :- (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

Cultural and Educational Rights

29. Protection of interests of minorities :- (1) Any section of citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

30. Right of minorities to establish and administer educational institutions :- (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administerted by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language

31. Compulsory acquisition of property :- [Repealed]

31A. Saving of laws providing for acquisition of estates, etc. :- (1) Notwithstanding anything contained in article 13, no law providing for

(a) The acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(b) The taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property; or

(c) The amalgamation of two more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(d) The extinguishment or modification of any rights of managing agents secretaries and treasurers, managing directors, directors or managers of corporation, or of any voting rights of share holders thereof, or

(e) The extinguishment or modification of any rights acquiring by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence.

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19.

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law having been reserved for the consideration of the President, has received his assent.

Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, which shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.

(2) In this article :-

(a) The expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include -

(i) any jagir, inam or muafi or other similar grant and in the States of Tamil Nadu and Kerala, any janmam right;

(ii) Any land held under ryotwari settlement;

(iii) Any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;

(b) The expression "rights" in relation to an estate, shall include any rights vesting in a proprietor, sub proprietor, under proprietor, tenure-holder, raiyat, under-raiyat, or other intermediary and any rights or privileges in respect of land revenue.

31B. Validation of certain acts and regulations :- Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Nineth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent legislature to repeal or amend it, continue in force.

31C. Saving of laws giving affect to certain directive principles :- Notwithstanding anything contained in article thirteen, no law giving effect to the policy of the State towards securing all or any of the principles laid down in *Part IV* shall be deemed to be void on the ground that it is consistent with, or takes away or abridges any of the rights conferred by article 14 or article 19 *and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy.* *

* The provision in italics has been declared invalid by the Supreme Court of India in **1973 Supp SCR 1 Kesavanananda Brarati v/s The State of Kerala**

Provided that where such law is made by legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

31D. Saving of laws in respect of antinational activities :- [Repealed]

Right to Constitutional Remedies

32.Remedies for enforcement of rights conferred by this part :- (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders of writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

32A. Constitution validity of State laws not be considered in proceedings under article 32 :- [Repealed]

33. Power of Parliament to modify the rights conferred by this Part in their application to Forces etc. :- Parliament may by law, determine to what extent any of the rights conferred by this Part shall, in their application to

(a) the members of the Armed Forces; or

(b) the members of the Forces charged with the maintenance of public order; or

(c) person employed in, any bureau or toher organisation established by the State for purposes of intelligence or counter intelligence; or

(d) persons employed in, or in connection with, the telecommunications systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c)

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of the discipline among them.

34. Restiction on right conferred by this Part while material law is in force in any area :- Notwithstanding anything in the foregoing provisions of this part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where material law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under material law in such area.

35. Legislation to give effect to the provisions of this part :- Notwithstanding anything in this Constitution -

(a) Parliament shall have, and the Legislature of a State shall not have, power to make laws-

(i) with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament and

(ii) for prescribing punishment for those acts which are declared to be offences under this Part, and Parliament shall, as soon as may be after the commencement of this Constitution make laws for prescribing punishment for the act referred to in sub-clause (ii);

(b) Any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of Clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall subject to the terms thereof and to any adaption and modification that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

Explanation :- In this article, the expression "law in force" has the same meaning as in article 372.

PART IV

DIRECTIVE PRINCIPLES OF STATE POLICY

36.Definition :- In this Part, unless, the context otherwise requires, the "State" has the same meaning as in *Part III*

37.Application of the principles contained in this Part :- The provision contained in this Part shall not be enforceable by any court, but the principles therein laid down are neverthless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

38. State to secure a social order for the promotion of welfare of the people ;- (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institution of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and indeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

39. Certain principles of policy to be followed by the State :- The State shall, in particular, direct its policy towards securing

(a) that the citizens, men and women equally, have the right to an adequate means of livilihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
(d) that there is equal pay for equal work for both men and women;
(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

39A. Equal justice and free legal aid :- The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

40. Organisation of village panchayats :- The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government.

41. Right to work, to education and to public assistance in certain cases :- The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

42. Provision for just and humane conditions of work and maternity relief :- The State shall make provision for securing just and humane conditions of work and for maternity relief.

43. Living wage, etc., for workers :- The State shall endeavour to secure, by suitable legislation or economic organisation of in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

43A.Participation of workers in management of industries :-The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings establishments or other organisations engaged in any industry.

44. Uniform civil code for citizens :- The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

45. Provision for free and compulsory education for children :- The State shall endeavour to provide within a period of ten years from the commencement of this Consitution for free and compulsory education for all children until they complete the age of fourteen years.

46. Promotion of educational and econimic interests of Scheduled Castes, Scheduled Tribes and other weaker sections :- The State shall promote with special care the educational and economic interests of the weaker sections of the people and in particular, of the Scheduled Castes and the Scheduled Tribes and shall protect them from social injustice and all forms of exploitation.

47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health :- The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

48. Organisation of agriculture and animal husbandry :- The State shall endeavour to organise agriculture and animal husbandry on modern and specific lines and shall, in particular, take steps for preserving and improving the breeds and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

48A. Protection and improvement of environment and safeguarding of forests and wildlife :- The State shall endeavour to pretect and improve the environment and to safeguard the forests and wild life of the country.

49. Protection of monuments and places and objects of national importance :- It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoilation, disfigurement, destruction, removal, disposal or export, as the case may be.

50. Separation of judiciary from executive :- The State shall take steps to separate the judiciary from the executive in the public services of the State.

51. Promotion of international peace and security :- The State shall endeavour to

(a) promote international peace and security;

(b) maintain just and honourable relations between nations;

(c) foster respect for international law and treaty obligations in the dealings of organised people with one another, and

(d) encourage settlement of international disputes by arbitration

PART IV A

FUNDAMENTAL DUTIES

51A. Fundamental duties :- It shall be the duty of every citizen of India
(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
(c) to uphold and protect sovereignty, unity and integrity of India;
(d) to defend the country and render national service when called upon to do so;
(e) to promote harmony and spirit and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
(f) to value and preserve the rich heritage of our composite culture;
(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
(h) to develop the scientific temper, humanism and the spirit of enquiry and reform;
(i) to safeguard public property and to abjure violence;
(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

PART VI

CHAPTER V

THE HIGH COURTS IN THE STATES

226. Power of High Courts to issue certain writs :- (1) Notwithstanding anything in article every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari or any of them, for the enforcement of any of the rights conferred by part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of

such Government or authority or the residence of such person is not within those territories.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or, in any proceedings relating to a petition under clause (1), without-

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard,

makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall, dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

226A. Constitutional validity of Central laws not be considered in proceedings under article 226 :- [Repealed]

227. Power of superintendence over all courts by the High Court :- (1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

(2) Without prejudice to the generality of the foregoing provision, the High Court may-

(a) call for returns from such courts;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the Sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

(5) [Repealed]

CASE LAWS

There are prescribed procedure and precedents in the interpretation of the Constitution and the practice of law and justice in India, and a few rulings of the High Courts and the Supreme Court in this regard are reproduced herewith under heads noted below.

1. Fundamental Rights
2. Judiciary under Constitution
3. Civil Procedure Code
4. Contempt of Courts
5. Resjudicata
6. Natural justice
7. Estoppel
8. General Clauses Act
9. Precedents
10. Interpretation of statutes
11. Writ

FUNDAMENTAL RIGHTS

Fast Track Courts Constitution of India - Article 21 - Continuance of Fast Track Courts - States cannot shrink their responsibility for providing speedy justice on the ground of financial crunch.

2005 (3) KLT 224 SC DB Brij Mohan Lal v/s Union of India

State Governments selecting a single manufacturer Constitution of India - Articles 19 (1) (g) and 19 (6) – State Governments selecting a single manufacturer for supply of HSVRP – Validity – It violates the fundamental rights of the writ petitioner guaranteed under Art.19(1)(g) – Clause 4(x) of the order and the procedure adopted by the State Governments in selecting a single manufacturer are invalid.

In view of this legal position Sub-clause (x) of Clause 4 of the Order issued by the Central Government and also the procedure adopted by the State Governments in selecting a single manufacturer for supply of HSVRP violates the fundamental rights of the writ petitioner guaranteed under Art.19(1)(g) of the Constitution and are invalid and consequently they are liable to be struck down. *In this judgment* **Writ Petition (C) No. 395 of 2003 Signs India v/s Union of India and others, AIR 1963 SC 1047 Akadasi Padhan v/s State of Orissa, 1969 (1) SCC 414 Rashbihari Panda v/s State of Orissa, 1971 (3) SCC 705 State of Rajasthan v/s Mohan Lal Vyas, AIR 1996 SC 11 Tata Cellular v/s Union of India** *and* **2001 (8) SCC 491 Union of India v/s Dinesh Engineering Corporation** *are relied on and* **AIR 1950 SC 163 Rasheed Ahmed v/s Municipal Board Kairana** *is mentioned.*

2004 (5) SCC 364 DB Association of Registration Plates v/s Union of India and others

State is free to create a monopoly in favour of itself Constitution of India - Article 19 (6) (ii) – State is free to create a monopoly in favour of itself but while doing so the entire benefit arising therefrom must go to the State and it should not be used as a cloak for conferring private benefit upon a limited class of persons.

There cannot be may law in violation of the provisions of the Constitution. A monopoly right cannot be conferred on a citizen under the Constitution nor can it be justified under the Constitution. The State can enter into monopoly but if the State conferred any monopoly right on a citizen it would be indefensible and impermissible and would be an infraction of the inviolable provision of the Constitution. The Constitution forbids grant by the State to a citizen of monopoly right to carry on the business of plying buses undertaken in the agreements. The manner in which the agreements were to be performed became illegal as a result of the Constitution. The agreements were therefore incapable of enforcement. The Constitution struck at the root of those agreements".

2004 (5) SCC 364 DB Association of Registration Plates v/s Union of India and others

Burden to prove unequal treatment Constitution of India - Article 14 - Burden of proof or presumption--Burden to prove unequal treatment, held, lies on the person complaining of such treatment as there is always a presumption in favour of the constitutionality of an enactment. Nature and scope--Nature of equality postulated by Article 14 Explained. Where a statutory provision is challenged as discriminatory, held, the pleadings must be specific, clear and unambiguous. Absolute equality not part of concept of equality before law. Article 14 guarantees similarity of treatment, not identical treatment--Extent of dissimilarity as would disentitle people to be treated equally is a vexed question.

AIR 2002 SC 1533 = 2002 (4) SCC 34 FB Ashutosh Gupta v/s State of Rajasthan and others

Protection of property Constitution of India – Articles 300 A, 21--Procedure established by law--Citizen's right to protection of property--Held, only dispossession in due course of law can be accorded legitimacy by the courts-Forcible dispossession by influential persons and musclemen cannot be condoned

AIR 2002 SC 1152 = 2002 (3) SCC 137 DB S.R. Ejaz v/s T.N. Handloom Weavers Co-operative Society Ltd

Smoking Constitution of India – Article 21, 32--Prohibition of smoking in public places--Directions issued.

Realising the gravity of the situation and considering the adverse effect of smoking on smokers and passive smokers, we direct and prohibit smoking in public places and issue directions to the Union of India, State Governments as well as the Union Territories to take effective steps to ensure prohibiting smoking in public places, namely:

(1) Auditoriums
(2) Hospital Buildings
(3) Health Institutions
(4) Educational Institutions
(5) Libraries
(6) Court Buildings
(7) Public Offices
(8) Public Conveyances, including Railways

2002 (1) KLT 55 = AIR 2002 SC 40 DB Murli S. Deora v/s Union of India

Equality Constitution of India – Article 14 – Equality clause – Intended to secure socio-economic justice to the people – Courts are duty bound to give shape and offer reality to socialistic concept.

The security clause in the Constitution has been equated to mean that the people of the country ought to be secured of socio-economic justice by way of a fusion of Fundamental Right and Directive Principles of State Policy. Socialism ought not to be treated as a mere concept or an ideal, but the same ought to be practiced in every sphere of life and be treated by the law Courts as a constitutional mandate since the law Courts exists for the society and required to act as a guardian angel of the society. As a matter of fact the socialistic concept of society is very well laid in Part III and Part IV of the Constitution and the Constitution being supreme, it is a bounden duty of the law courts to give shape and offer reality to such a concept. *In this judgment* **1997 AIR SCW 430, 1995 (4) JT SC 264, 1991 (4) JT SC 413, AIR 1983 SC 130, AIR 1980 SC 1789, 1978 Lab IC 1264** *and* **1897 AC 22** *are referred to.*

2000 (2) KLT SN 66 P 60 SC DB Haryana State Electricity Board v/s Suresh

Rights Constitution of India - Articles 14, 15, 16 and 19 – Art.14 applies to citizens and non-citizens – While Arts.15, 16 & 19 applies to citizens only.

The Fundamental Rights contained in Art.19, which contains the right to "Basic Freedoms", namely, freedom of speech and expression; freedom to assemble peaceably and without arms; freedom to form associations or unions; freedom to move freely throughout the territory of India; freedom to reside and settle in any part of the territory of India and freedom to practise any profession, or to carry on any occupation, trade or business, are available only to "citizens" of the country. The word "citizen" in Art.19 has not been used in a sense different from that in which it has been used in Part II of the Constitution dealing with "citizenship". The words "all citizens" have been deliberately used to keep out all "non-citizens" which would include "aliens". *In this judgment* **AIR 1963 SC 1811, 1955 SC 367, 1971 SC 337, 1957 MB 1, 1974 All 13, 1965 Cal 312** *and* **1971 SC 337** *are referred to.*

2000 (1) KLT 655 SC DB Railway Board v/s Chandrima Das

Right to life Constitution of India - Article 21 – Right to life – Extended meaning – Right to livelihood – Violation – Effects – It includes all attributes of life, but not legal or contractual rights.

The violation of the right to livelihood is required to be remedied. But the right to livelihood as contemplated under Art.21 of the Constitution cannot be so widely construed which may result in defeating the purpose sought to be achieved by the aforesaid Article. It is also true that the right to livelihood would include all attributes of life but the same cannot be extended to the extent that it may embrace or take within its ambit all sorts of claim relating to the legal or contractual right of the parties completely ignoring the person approaching the court and the alleged violation of the said right.

1999 (2) KLT SN 36 P 30 State of H.P. v/s R.M. Pal

Right to freedom Constitution of India - Article 19 (1) (a) – In the course of enjoying the right to freedom and speech of expression one cannot interfere with the freedom of others – He must enjoy the same with minimum inconvenience to the public at large – A citizen has a right to resist the conducting of meetings at residential area using speakers – It is the duty of the authorities to see that frequent meetings are not allowed to be conducted at residential areas especially when convenient other places like grounds nearby are available.

Every citizen has got a right to express his view on any mater, subject of course to other laws that are in force. We are not concerned with the same. Now the question is when a person, in the course of enjoying such a right, namely one conferred under Art.19(1)(a) of the Constitution of India, can he interfere with the freedom of others, or in other words, can it be by interfering with the basic human rights and fundamental rights of other citizens. The citizens have a right to resist the same and it is the duty of the authorities to see that such meetings are not allowed to be conducted in Mahalara Junction at Mattanchery, more so when very closely convenient places are available to conduct meetings.

1999 (2) KLT 59 = 1999 (1) KLJ 524 = ILR 1999 (2) Ker 693 = AIR 1999 Ker 262 New Road Brothers v/s Commissioner of Police

Holidays Constitution of India - Article19 (1) (g) – Is not violative – See – Industrial Establishments (National & Festival Holidays) Act, (Kerala), 1958, as amended in 1990.

1999 (1) KLT 83 SC M.R.F. Ltd v/s Inspector, Kerala Government

Rights Constitution of India - Articles 14, 16 and 21 – Right to equality and right to life and liberty – Working woman – Sexual harassment at working place by superior amounts to violation of fundamental rights and those rights must be protected.

The contents of the fundamental rights guaranteed in our Constitution are of sufficient amplitude to encompass all facets of gender equality. Including prevention of sexual harassment and abuse and the court are under a constitutional obligation to protect and preserve those fundamental rights. That sexual harassment of a female at the place of work is incompatible with the dignity and honour of a female and needs to be eliminated and that there can be no compromise with such violations, admits of no debate.

1999 (1) KLT SN 40 P 38 SC DB Apparal Export Promotion Council v/s A.K. Chopra

Work place Constitution of India - Articles 14,16 and 21 - Each incident of sexual harassment, at the place of work, results in violation of the fundamental right to tender Equality and the right to life and liberty the two utmost precious fundamental rights Guaranteed by the constitution of India and those rights must be protected.

1999 (1) KLT SN 40 P 38 SC DB Apparel Export Promotion Council v/s A.K. Chopra

Bundh Words and Phrases-'Bundh' Meaning of-Bundh Means 'closed or 'locked'-It conveys an idea that every thing is to be blocked or closed.

"Bundh" is a Hindi word meaning 'closed' or 'locked'. The expression therefore, conveys an idea that everything is to be blocked or closed. The intention of the callers of the bundh is to ensure that no activity either public or private is carried on that day, is also clear from their further statements sometimes made that the newspapers, hospitals and the milk supply is excluded from the bundh. This clarification obviously implies that otherwise the intention is that those services are also to be affected. If the intention is to prevent the milk supply, prevent the distribution of newspapers prevent people going to the hospitals for treatment, sprevent the people from travelling and to generally prevent them from attending to their work either in service of the State or in their own interests, that obviously means that it amounts to a negation of the rights of the citizens to enjoy heir natural rights, their fundamental freedom and the exercise of their fundamental rights.

1997 (2) KLT 287 FB = AIR 1997 Ker 291 = 1997 (2) KLJ 1 = ILR 1997 (3) Ker 445 Bharat Kumar v/s State of Kerala

Co-operative Societies Constitution of India - Art.226, 43 & 19 (1) (g) - The mandate of Art.43 is that the State should endeavour to promote the activities of the Co-operative Societies-Any favourable treatment given to the State owned enterprises or Co-operative Societies is not violative of Art. 19 (1) (g).

KAICO and RAIDCO are manufactures and dealers of agro-machineries. These organizations being part of the co-operative movement, it is necessary that the Government should give support and help to such co-operative Societies. Any favourable treatment given to the State owned enterprises or co-operative societies cannot be held to be violative of Art. 19 (1) (g) of the Constitution. Under the various schemes of loans, the District Co-operative Bank directed that hose who sought for loan shall purchase agro-machinery from the co-operative Societies under the control of RAIDCO and KAICO. The State is controlling the distribution of loans. But it is well within the authority of the State Government to impose any condition as regards the disbursement of loans. It is also the duty of the State to see that the loans are utilised by the agriculturists for the purpose for which they had been availed.

1996 (1) KLT 383 = ILR 1996 (2) Ker 276 = AIR 1996 Ker 329 Krishnan v/s State

Power to make Rules Article 348 (3) - Necessity to publish English translations of Bills, Acts, Ordinances, Order, Bye-law etc, simultaneously with

their introduction, passing, promulgation or issue as the case may be.

Whenever a Bill is introduced in the Legislature or an Acts passed by the Legislatue or an Ordinance is promulgated by the Governor or any order, rule, regulation or bye-law is issued in the exercise of the powers to make Subordinate Legislation Engligh translation of the same should be published simultaneously. The said translation is to be deemed to be the authoritative text thereof.. Such English translations are not forthcoming immediately after the passing of the Act, promulgation of the Ordinance of the issue of order, rule, regulation, bye-law etc. This is against the constitutional provision contained in Art. 348 (3) of the Constitution.

1995 (2) KLT 663 = AIR 1996 Ker 55 = ILR 1996 (2) Ker 42 Thanga Dorai v/s Chancellor, Kerala University

General Words and Phrases-'Work Place' meaning of-Covers all places where workers need to be or need to go by reasons of their work and which are under the direct or indirect control of employer-Constitution of India Arts. 32 & 226.

1995 (1) KLT SN 38 P 27 SC FB Consumer Education & Research Centre v/s Union of India

JUDICIARY UNDER CONSTITUTION

Words of judgment Constitution of India - Article 141 - Binding nature of precedents - Treating words of judgment as though they are words in legislative enactment is perilous - Disposal of cases by merely placing relevance on decision without indicating its applicability and relevance to facts of case improper. *In this judgment* **C.R. No.1413** *of* **2003 (P&H)** *is versed and* **AIR 1993 SC 1769** *and* **1974 (3) SCC 368** *are referred to.*

2005 (1) KLT SC SN 9 DB Punjab National Bank v/s Vaid

Non production of evidence Constitution of India - Article 226 – Presumption as to adverse inference for non production of evidence is always optional and one of the factors which is required to be taken into consideration is the background of facts involved in the lis – Presumption is not obligatory because not withstanding the intentional non production, other circumstances may exist upon which such intentional non production may be found to be justifiable on some reasonable grounds – In the instant case, the Industrial Tribunal did not draw any adverse inference against the appellant – See – Industrial Disputes Act, 1947 – S.25F, S.25N,S.25B,S.11

2004 (8) SCC 195 DB Municipal Corporation, Faridabad v/s Siri Niwas

Sitting Judge misuses his divine judicial duty Constitution of India - Article 14 – Administration of justice – Sitting Judge misused his divine judicial duty as liveries to accomplish his personal ends – He betrayed the trust reposed in him by the people – Conduct of the Judge is beyond condonable limits.

Judiciary is the repository of public faith. It is the trustee of the people. It is the last hope of the people. After every knock at all the doors failed people approach the Judiciary as the last resort. It is the only temple worshipped by every citizen of this

nation, regardless of religion, caste, sex or place of birth. Because of the power he wields, a Judge is being judged with more stricter than others. Integrity is the hall mark of judicial discipline, apart from others. It is high time the Judiciary must take utmost care to see that temple of justice do not crack from inside, which will lead to catastrophe in the justice delivery system resulting in the failure of public confidence in the system. We must remember that woodpeckers inside pose a larger threat than the storm outside. Since the issue involves in the present controversy will have far reaching impact on the quality of Judiciary, we are tempted to put it on record which we thought it to be a good guidance to achieve the purity of Administration of Justice.

2004 (3) KLT 1060 SC DB Tarak Singh v/s Jyoti Basu

Publication of books Constitution of India - Article 226 – Publication of books – Responsibility of the editor and publisher – Every editor and publisher is bound to refer to the official text of the Act published in the Government Gazette and to reprint it.

Every editor and publisher is bound to refer to the official text of the Act published in the Government Gazette and to reprint it. To publish truncated forms of enactments really affects the administration of justice. It causes difficulties to the advocates and the judges and even to the public. Every editor and publisher of enactments, rules and notifications and other statutory orders, shall publish the text as printed in the official gazette alone. This shall be taken as a direction and every violation when noticed shall be dealt with appropriately.

2004 (1) KLT 565 DB Malinga Naik v/s Ibrahim

Attestation of certified copy Constitution of India - Article 226 – Genuineness of the certified copy produced by the petitioner – Attestation by Home Secretary – Certified copy is sufficient for attestation.

The Home Secretary does not appear to be familiar with the procedure in court or otherwise he would not have demanded the original judgment signed by the Judge which has to be retained as part of court records and not to be issued to any party. If the genuineness of the certified copy produced by the petitioner is to be verified which the Home Secretary is free to verify, he has enough machinery at his disposal such as the District Government Pleader, the police, or even through the Law Secretary.

2004 (1) KLT SN 101 Ramla v/s Secretary to Government

Delay in pronouncement of judgments amounts to denial of justice Judgments - Arguments heard but judgment reserved - Delay in pronouncement of judgments amounts to denial of justice-Guidelines chalked out by Supreme Court to be followed by all concerned being mandate of Supreme Court.

(i) The Chief Justices of the High Courts may issue appropriate directions to the Registry that in a case where the judgment is reserved and is pronounced later, a column be added in the judgment where, on the first page, after the cause-title date of reserving the judgment and date of pronouncing it be separately mentioned by the court officer

concerned. (ii) That Chief Justices of the High Courts, on their administrative side, should direct the Court Officers/readers of the various benches in the High Courts to furnish every month the list of cases in the matters where the judgments reserved are not pronounced within the period of that month. (iii) On noticing that after conclusion of the arguments the judgment is not pronounced within a period of two months the concerned Chief Justice shall draw the attention of the Bench concerned to the pending matter. The Chief Justice may also see the desirability of circulating the statement of such cases in which the judgments have not been pronounced within a period of six weeks from the date of conclusion of the arguments amongst the Judges of the High Court for their information. Such communication be conveyed as confidential and in a sealed cover. (iv) Where a judgment is not pronounced within three months from the date of reserving judgment any of the parties in the case is permitted to file an application in the High Court with prayer for early judgment. Such application, as and when filed, shall be listed before the bench concerned within two days excluding the intervening holidays. (v) If the judgment, for any reasons, is not pronounced within a period of six months any of the parties of the said lis shall be entitled to move an application before the Chief Justice of the High Court with a prayer to withdraw the said case and to make it over to any other bench for fresh arguments. It is open to the Chief Justice to grant the said prayer or to pass any other order as he deems fit in the circumstances.

2001 (3) KLT SN 21 P 15 = 2001 (7) SCC 318 DB Anil Rai v/s State of Bihar

Temperate language Judgments - Judges should use temperate language in their judgements, orders or directions.

2001 (2) SCC 156 DB State of Gujarat v/s Mansurbhai Motibhai Damor

Binding remand orders Section 100 - Unchallenged remand order of the lower Appellate Court though binding on it is not binding on the superior courts while hearing the appeal.

Even though the lower appellate court remanded the case to the trial court to consider Ext. P2 in the light of the judgment of the Full Bench of this Court reported in 1975 KLT 1 in fact the consideration should have been Ext. P1 mortgage as the sub mortgage deed No.387 of 1986 M.E. is created by the mortgage thereunder. Even though the remand order passed by the lower appellate court is not challenged by the appellant, the remand order will bind only the lower appellate court and did not bind this court which is the superior court.

2001 (1) KLT 790 = AIR 2001 Ker 210 Chandrasekharan Nair v/s Kalliani Amma

Upholding the Constitution and the Directive Principles of the State policy Constitution of India - Articles 36, 51 Part IV – Judges have also a role to play for upholding the Constitution and the Directive Principles of the State policy.

The legislations mentioned above enacted by the Parliament as well as State legislation so as to uphold the provisions of the Constitution and the Directive Principles of the State Policy, Judges cannot keep aloof from the nation building process. They

have also a role to play for upholding the Constitution and the Directive Principles of the State Policy. It is not as if it is only for the legislative or executive to implement the Laws so as to uphold the constitutional scheme. Judges as well as the legislative and the executive are part of the constitutional scheme. *In this judgment* **1998 (2) KLT 712, 1991 (3) SCC 617, 1974 (5) PC 417 N, AIR 1973 SC 1461** *and* **AIR 1955 Mad 1** *are relied on.*

2000 (3) KLT 771 DB Sreekumar v/s State of Kerala

Higher Courts and lower judicial officers Higher Courts should avoid making aspersions against lower judicial officers and should keep utmost restraint even on occasions the lower judicial officers are to be criticised.

It is clear from Annexures A and B petitions and Annexure C order passed by the petitioner that he considered the fact that the first accused is a woman suffering from illness and requires further treatment as envisaged under the first proviso to S.437 Cr.P.C. Whether he is justified in granting bail to the first accused in view of the special provisions of S.41 & 41A of the Abkari Act is a matter for consideration by the appellate Court. It has to be noted that even though the learned Sessions Judge found that the order passed by the petitioner granting bail to the first accused is improper and by usurpation of the powers of the Sessions Court, did not find it necessary to cancel the bail granted to the first accused by the petitioner as per Annexure C order. Therefore on careful consideration of the nature and facts and circumstances of the case it is clear that the Sessions Judge is not justified in making the adverse remarks against the petitioner noted above and those remarks are liable to be expugned. *In this judgment* **AIR 1997 SC 1157, AIR 1994 SC 1981** *and* **AIR 1961 SC 708** *are followed.*

2000 (2) KLT 552 Sman v/s Vasanthakumari

Undue delay in delivering judgments Judgments – Undue delay in delivering judgments – Such delay may have created apprehension in the minds of aggrieved party that the arguments raised at the bar have not been reflected or appreciated while dictating the Judgment.

The appellants whose appeals have been dismissed by the High Court may have the apprehension that the arguments raised at the bar have not been reflected or appreciated while dictating the judgment nearly after five years. *In this judgment* **1995 Supp (4) SCC 125** *is referred to.*

2000 (1) KLT SN 56 P 50 = JT 2000 (1) SC 266 DB Bhagwandas v/s H.P.A. International

The doctrine of legitimate expectation Constitution of India - Article 226 – The doctrine of legitimate expectation is essentially procedural in character, it may in given situation be enforced as a substantive right.

2000 (1) KLJ NOC 33 Leelamma and others v/s Regional Provident Fund Commissioner

When there is conflict between two decisions When there is conflict between two decisions of the Apex Court of equal Benches which of those decisions should be followed by High Court.

When judgments of superior courts are of co-equal Benches, and, therefore, a matching authority, then their weight inevitably must be considered by the rational and logic thereof and not by the mere fortuitous circumstances of the time and date on which they were rendered. *In this judgment* **1989 (2) KLT 845** *and* **AIR 1991 All 114** *are relied on.*

1999 (3) KLT 207 = 1999 (2) KLJ 646 = ILR 2000 (1) Ker 110 Jossy Kondody v/s Chacko Thomas

Collegium to take disciplinary action Judiciary – Practice of appointing five senior Judges in the collegium to take disciplinary action needs a change – Other Judges should have also a chance to take part.

Constitution of a small committee of few senior Judges, as, for example, in the instant case in which the Disciplinary Committee consists of five senior most Judges, excludes permanently other Judges. This exclusion militates against the concept of "wider consultation" which is inherent in the words "High Court". May of the Judges, specially those elevated from judicial service who usually have a short tenure, would superannuate without even reaching the "Collegium" of five senior most Judges. Bound as we are by the decision of the Constitution Bench, we leave the matter here as it is with the hope that this Judge-made law would be reconsidered one day and if found to be retrograde and against the developing concepts would undergo an evolutionary change or the Bombay High Court itself, we may suggest, without intending to encroach upon the conclusive Constitutional rights of the Chief Justice to run the High Court, would adopt a new resolution which would permit other Judges also to participate in the decision making process concerning, at least, the imposition of major penalties like dismissal or removal, on members of the subordinate judiciary, as these punishments finally close their service chapter.

1999 (3) KLT SN 93 P 88 DB Yoginath D. Bagde v/s State of Maharashtra

If court has committed a mistake Constitution of India - Articles 32 and 226 – Review – If court has committed a mistake, it has plenary power to correct it.

Supreme Court and High Court have plenary powers. If Court committed a mistake, it has plenary power to correct it. Directions for exemplary damages and C.B.I. enquiry set-aside.

1999 (3) KLT SN 27 P 25 SC FB Common Cause A Registered Society v/s Union of India

Judicial propriety Judicial propriety – Single Bench disagreeing with views of Division Bench – Must be referred to larger Bench.

The language employed by the learned single Judge while considering the judgment of the Division Bench and also of the learned single Judge is not proper. The remarks made by the learned single Judge against the Hon'ble Judge are most

uncharitable. If he entertains doubts about the correctness of the decisions, he ought to have, in all fairness, referred the matter to a larger Bench for an authoritative pronouncement. *In this judgment* **1995 (1) KLT 748, 1992 (1) LW 216** *and* **1996 (2) MLJ 398** *are referred to.*

1999 (2) KLT 794 = 1999 (2) KLJ 192 = ILR 1999 (3) Ker 333 FB Samaruddin v/s Assistant Director of Enforcement

Introduction of a particular Legislation Constitution of India - Article 226 – Court cannot even indirectly require the Executive to introduce a particular Legislation or the legislature to pass it or assume to itself a supervisory role over the law making activities of the Executive and the Legislature.

If the Executive is not carrying out any duty laid upon it by the Constitution or the law, the Court can certainly require the Executive to carry out such duty and this is precisely what the court does when it entertains Public Interest Litigation …..But at the same time the Court cannot usurp the functions assigned to the Executive and the Legislature under the Constitution and it cannot even indirectly require the Executive to introduce a particular legislation or the Legislature to pass it or assume to itself a supervisory role over the law making activities of the Executive and the Legislature. *In this judgment* **AIR 1985 SC 910** *is relied on.*

1999 (2) KLT 725 = 1999 (2) KLJ 139 DB Ramakrishnan v/s State of Kerala

Efficient functioning of Judiciary Beach and Bar are two inextricable wings of the judicial forum and mutual respect is the sine qua non for the efficient functioning of the solemn work.

1999 (1) KLJ 530 SC DB Mahabir Prasad Singh v/s Jacks Aviation Pvt. Ltd

Translated text of the English language Constitution of India - Article 348 (3) – Translated text of the English language published in the Gazette shall be deemed to be the authoritative text.

Art.348(3) of the Constitution of India states that the translated text of the English language published in the Gazette shall be deemed to be the authoritative text. Hence the contention that the Malayalam version has to be followed cannot be accepted. Even so the expression "withdraw from the meeting" indicates that the suspension can be only for the meeting and cannot extend the period beyond one meeting. *In this judgment* **1995 (2) KLT 663** *is referred to.*

1999 (1) KLT 208 Thomas v/s David

Hearing should be done by a judge with an unbiased mind Constitution of India - Article 226 – Judge who heard original Writ Petition Presiding over Division Bench in Appeal against order of Single Judge in subsequent Writ Petition – Impropriety.

All judicial functionaries have necessarily to have unflinching character to decide a case with an unbiased mind. Judicial proceedings are held in open court to ensure transparency. An essential requirement of judicial adjudication is that the judge is impartial and neutral and is in a position to apply his mind objectively to the facts of the case put

up before him. If he is predisposed or suffers from prejudices or has a biased mind, he disqualifies himself from acting as a judge. In proceedings under Art.226 of the Constitution of India principles of natural justice are observed strictly in letter and spirit, One of the requirements of natural justice is that the hearing should be done by a judge with an unbiased mind, Bias may be defined as a pre-conceived opinion or a predisposition or pre-determination to decide a case or an issue in a particular manner, so much so that such predisposition does not leave the mind open to conviction. It is, in fact, a state of mind which sways judgments and renders the judge unable to exercise impartiality in a particular case.

1999 (1) KLT SN 30 P 30 SC DB State of West Bengal v/s S. Pathak

RULINGS UNDER CIVIL PROCEDURE CODE

Election Petition Civil Procedure Code, 1908 - Order VIII Rule 1 proviso - Court trying an Election petition is empowered under the High Court Rules to grant a reasonable time for filing a written statement though for reasons recorded - This descretion vested in the Court by Rules made under Article 235 for purposes of any special act would not be controlled by the proviso to sub rule (1) of Order VIII - Representation of the People Act, 1951 Sections 87 and 86. *In this judgment* **1969 (1) SCR 630** *and* **JT 2005 (1) SC 50** *is referred to.*

2005 (2) KLT 623 SC FB Kailash v/s Nanhku

Pleadings Contentions which do not find a place in pleadings or in evidence before Trial Court raised for the first time in revision - Court not to accept such contentions. *In this judgment* **AIR 1930 PC 57 (1), AIR 1966 SC 1861, 1984 KLT 606, 1970 KLT 1096, 1991 (2) KLT 32, 1988 (2) KLJ 156, 1991 (2) KLT 862 AND AIR 1987 SC 2179** *are referred to.*

2005 (2) KLT 400 DB Mohammed Sageer v/s Prakash Thomas

Deposit of Amount disputed Civil Procedure Code, 1908 - Order XLI Rule 1 (3) Discretion is available to Court either to direct deposit of amount disputed or to permit such security in respect thereof being furnished as the Appellate Court may think fit.

2005 (2) KLT SC SN 89 C 107 DB Sihor Nagar Palika Bureau v/s Bhabhlubhai Virabhai & Co

Cause of action Civil Procedure Code - Section 20 – "Cause of action" – Meaning of – Facts giving rise to court's territiorial jurisdiction are only those facts give rise to a cause of action within a court's territorial jurisdiction which have a nexus or relevance with the lis that is involved in the case, not otherwise – Cause of action – Acquisition and Requisition – See – Constitution of India – Art.226(2)

2004 (9) SCC 786 = AIR 2004 SC 1998 DB National Textile Corporation Ltd and others v/s Haribox Swalram and others

Change of nature of property Civil Procedure Code - Order 39 Rules 1

and 2 – Unless and until a case of irreparable loss or damage is made out by a party to the suit, the Court should not permit the nature of the property being changed which also includes alienation or transfer of the property which may lead to loss or damage being caused to the party who may ultimately succeed and may further lead to multiplicity of proceedings.

We do not think in the facts and circumstances of this case, the lower appellate court and the High Court were justified in permitting the respondent to change the nature of property by putting up construction as also by permitting the alienation of the property, whatever may be the condition on which the same is done. In the event of the appellant's claim being found baseless ultimately, it is always open to the respondent to claim damages or, in an appropriate case, the court may itself award damages for the loss suffered, if any, in this regard. Since the facts of this case do not make out any extraordinary ground for permitting the respondent to put up construction and alienate the same, we think both the courts below, namely, the lower appellate court and the High Court erred in making the impugned orders. The said orders are set aside and the order of the trial court is restored.

2004 (8) SCC 488 DB Maharwal Khewaji Trust (Regd), Faridkot v/s Baldev Dass

Place of suing Civil Procedure Code - Section 20 – Place of suing – Plaintiff has a choice of forum – Where two or more Courts have jurisdiction under Civil Procedure Code to try a suit or proceeding an agreement between the parties that the dispute between them shall be tried in any one of such Courts. *In this judgment* **1991 (4) SCC 270 Patel Roadways Ltd, Bombay v/s Prasad Trading Company, AIR 1971 SC 740 Hakam Singh v/s Gammon (India) Ltd** *and* **AIR 2002 SC 2402 Shriram City Union Finance Corporation Ltd. v/s. Rama Mishra** *are relied on.*

2004 (4) SCC 677 = AIR 2004 SC 2154 DB New Moga Transport Company, through its Proprietor Krishanlal Jhanwar v/s United India Insurance Co. Ltd and others

Place of suing Civil Procedure Code - Section 20 – Restriction of place of suing by agreement – Not open to the parties to confer by their agreement jurisdiction on a Court which it does not possess under the Code – But where two Courts or more have under the Code of Civil Procedure jurisdiction to try a suit or a proceeding, an agreement between the parties that the dispute between them shall be tried in one of such Courts. *In this judgment* **1971 (1) SCC 286 Hakam Singh v/s Gammon (India) Ltd, AIR 1989 SC 1239 A. B. C. Laminart Pvt. Ltd v/s A.P. Agencies** *and* **1995 (4) SCC 153 Angile Insulations v/s Davy Ashmore India Ltd** *are relied on.*

2004 (4) SCC 671 = AIR 2004 SC 2432 DB Hanil Era Textiles Ltd v/s Puromatic Filters (P) Ltd

Amendment of pleadings Civil Procedure Code - Order 6 Rule 17 Proviso, Order 41 Rule 33 – Amendment of pleadings – Court would as a rule decline to allow

amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the application – But that is a factor to be taken into account in exercise of the discretion as to whether amendment should be ordered, and does not affect the power of the Court to order it.

The law as regard permitting amendment to the plaint, is well settled. In **AIR 1957 SC 357 = 1957 SCR 438 L.J. Leach and Co. Ltd and another v/s Jardine Skinner and Co.**, it was held that the Court as a rule decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the application. But that is a factor to be taken into account in exercise of the discretion as to whether amendment should be ordered and does not affect the power of the Court to order it. *In this judgment* **AIR 1957 SC 357 = 1957 SCR 438** *is relied on* **2004 (3) SCC 392 FB T.N. Alloy Foundry Co. Ltd v/s T.N. Electricity Board and others**

Transfer of suit Civil Procedure Code - Section 25 – Transfer of suit – Two plaints filed by the two parties are before two different Courts – Parties are substantially the same – Course of action alleged in the two plaints refers to the same period and the same transactions – Same set of evidence would be needed to be adduced for purpose of determining the issues of facts and law arising for decision in the two suits before two different Courts – If separate trials are held, there will be duplication of recording of evidence – Possibility that the two Courts may record findings inconsistent with each other and conflicting decrees may come to be passed – Later suit is directed to be transferred to the Court where the earlier suit was filed – Two suits shall be consolidated for the purpose of trial and decision. *In this judgment* **Original Suit No. 38/98 Jaypee Rewa Cement (A Division of Jai Prakash Industries Limited) v/s Chitivalasa Jute Mills (A Division of Willard India Limited** *are mentioned.* **2004 (3) SCC 85 = AIR 2004 SC 1687 DB Chitivalasa Jute Mills v/s Jaypee Rewa Cement**

Notice and appeal Civil Procedure Code - Section 107(1), Order 3, Rule 4 – Whether a notice to the counsel appearing in the case will be sufficient notice after the appeal is finally disposed of and when the Review petition is filed or is it necessary to order notice to the parties direct – Held, it is sufficient if notice is served on the counsel who appeared in the appeal in the Review Petition also and unless the counsel submits to the Court that he has no instruction, the notice so served will be sufficient notice in the Review Petition.

R. 19 of the Rules of the High Court of Kerala states that every vakalath shall, unless otherwise permitted by the Court, be in Form No.1 and may authorise the advocate to appear in subsequent proceedings such as application for leave to appeal to the Supreme Court, appeals to a Division Bench etc. The Form contains necessary indication that it authorises the counsel to appear in the Review Petition without any fresh vakalath. The conclusion that can be reached from the above rules is that it is sufficient if notice is served on the counsel who appeared in the appeal in the Review

Petition also and unless the counsel submits to the Court that he has no instruction, the notice so served will be sufficient notice in the Review Petition.

2004 (2) KLT 1078 = 2004 (2) KLJ 288 = ILR 2004 (3) Ker 373 Mulloor Chit Fund v/s Pathumma Beevi

Presence of a party Civil Procedure Code - Order16 Rule 21 – Party to the proceedings has no right to compel the presence of another party to the suit for giving evidence – If the Court ultimately finds that such examination is required for a proper adjudication, it has power to do so.

The proviso is not for restricting the power of the court rather it empowers the court to refuse examination of the witness on the ground stated in the proviso, It can therefore be seen that the proviso confers a discretion. As a matter of fact, whether the defendant or opposite side could be summoned as a witness is not governed by any rule under the Code of Civil Procedure or any statutory rule but governed by principles settled by judicial pronouncements.

2004 (2) KLT 499 = 2004 (1) KLT SN 128 = 2004 (1) KLJ 558 Kaumudi Madhavan v/s State Election Commissioner

Order of remand Civil Procedure Code - Section 105(2) – Legal validity of the order of remand – When the matter reaches a forum, superior to one which had made the order of remand earlier, it can go into the question of legality or validity of the order of remand.

No appeal lies to this Court against an order of remand; an appeal under Art. 136 of the Constitution is only by special leave granted by this court. It is settled law that S.105(2) has no applicability to the Privy Council and to the Supreme Court. In the present appeal preferred against the judgment and decree passed by the High Court in the proceedings held pursuant to the earlier order of remand dated 10.2.1981 the correctness of the order of remand can be examined and gone into by this Court. *In this judgment* **1960 (3) SCR 590** *is relied on.*

2004 (2) KLT 61 = ILR 2004 (2) Ker 67 = AIR 2004 SC 1206 DB Krishna Pillai v/s Padmanabha Pillai

Correction of mistakes Civil Procedure Code - Section 152 – Correction of clerical or arithmetical mistakes in judgements, decrees or orders or errors arising therein from any accidental slip or omission – Exercise of this power contemplates the correction of mistakes by the Court of its ministerial actions – It does not contemplate passing of effective judicial orders after the judgment, decree or order *In this judgment* **AIR 1986 SC 1571, 1999 (3) SCC 500, 2001 (4) SCC 181** *and* **AIR 1966 SC 1047** *are relied on.*

2004 (1) SCC 328 = AIR 2003 SC 4179 DB State of Punjab v/s Darshan Singh

Necessary party Civil Procedure Code - Order 1 Rule 9, Order 1 Rule 10 (2) - Absence of a necessary party – Procedural law as well as the substantive law both mandates that in such cases, the order passed is a nullity and does not have a binding effect.

The procedural law as well as the substantive law both mandates that in the absence of a necessary party, the order passed is a nullity and does not have a binding effect.

2004 (1) SCC 317 DB Khetrabasi Biswal v/s Ajaya Kumar Baral and others

Illegal, Null or Void decree Civil Procedure Code - Sections 47 and 33 – "Illegal decree" and "Null/Void decree" – Distinction –"Void" or "Null"- These terms have no absolute sense – Their meaning is relative, depending upon the Court's willingness to grant relief in any particular situation – Order of a superior Court such as the High Court, must always be obeyed no matter what flows it may be thought to contain.

Two things must be clearly borne in mind Fistly, the Court will invalidate an order only if the right remedy is sought by the right person in the right proceedings and circumstances. The order may be 'a nullity' and 'Void' but these terms have no absolute sense their meaning is relative, depending upon the Court's willingness to grant relief in any particular situation. If this principle of illegal relativity is borne in mind, the law can be made to operate justly and reasonably in cases where the doctrine of ultra vires, rigidly applied, would produce unacceptable results. The order of a superior Court such as the High Court, must always be obeyed no matter what flaws it may be thought to contain. Thus a party who disobeys a High Court injunction is punishable for contempt of Court even though it was granted in proceedings deemed to have been Irrevocably abandoned owing to the expiry of a time limit. *In this judgment* **1970 (1) SCC 670** *is relied on.*

2004 (1) SCC 287 = AIR 2003 SC 3789 DB Rafique Bibi (Dead) by Lrs v/s Sayed Waliuddin (Dead) by Lrs and others

Executing the decree Civil Procedure Code - Order 21 Rule 2 – A payment or adjustment which has not been certified or recorded shall not be recognised by the Court executing the decree.

If a decree is adjusted in whole or in part to the satisfaction of the decree – holder, the decree – holder has to certify such adjustment to that court which has to record the adjustment accordingly. If the payment or adjustment is not reported by the decree – holder, the judgment – debtor has been given the right to inform the court of such payment or adjustment and to apply to that court for certifying that payment or adjustment after notice to the decree-holder. Sub-rule (3) of Rule 2 of Order 21, C.P.C. provides that a payment or adjustment which has not been certified or recorded under sub-rule (1) or (2) shall not be recognised by the court executing the decree. *In this judgment* **2003 (1) KLT 261** *and* **1997 (1) SCC 373** *are followed and* **1982 (3) SCC 198** *is referred to.*

2004 (1) KLT SN 127 = ILR 2004 (2) Ker 382 Joseph Moolayil v/s Devakiamma

Tribunals and Courts Civil Procedure Code - Section 115 – Tribunals – Though all the Courts are tribunals, all the Tribunals are not Courts – Distinction between Court and Tribunal.

It is well settled that the word 'Court' is used to designate those Forums which are set up in an organized State to exercise judical powers of the State to maintain and uphold rights and punish wrongs that is for administration of justice and the word 'Court' would denote 'ordinary courts of civil judicature'. The judical power of the Government is exercised by establishment of hierarchy of courts, to decide disputes between its subjects and the subjects and the State. The powers, which these courts exercise, are judicial powers, the functions, which they discharge, are the judicial functions; and the decisions, which they reach and pronounce, are judicial decisions. 'Court' referred to in sub-section (1) of S.115 is a regular civil court as contemplated in S.3 and 9. The jurisdiction, which has been taken away from the Civil Court, has been given to the Tribunal to exercise in the capacity of the Tribunal and not as regular civil courts, Even if the Tribunals are presided over by the judges of regular courts and exercising the judicial power and discharging judicial function, that does not make any difference in principle as they still remain as the Tribunals only. Since, the three respective Tribunals are excluded from exercising jurisdiction of ordinary Civil Court by separate enactments, the orders passed by them are not amenable to the revisional jurisdiction under S.115. In view of the above decisions and for the reasons mentioned, it is to be held that the Motor Accident Claims Tribunal (MACT) established under the Motor Vehicles Act, the Education Appellate Tribunal (EAT) established under KPEI (D&C) Act, 1975, the Karnataka Education Act, 1983 and the Railway Claims Tribunal (RCT) established under the Railway Claims Tribunal Act, 1987 are not the courts subordinate to the High Court for the purpose of S.115. *In this judgment* **ILR 2000 Karn 170** *and* **AIR 1985 Karn 208** *are overruled,* **W.A.1101-03** *of* **1987** *is dissented from and* **AIR 1983 Karn 164** *and* **ILR 1998 Karn 3733** *are approved.*

2004 (1) KLT SN 28 = 2003 (10) ILD 198 FB Union of India v/s Mysore Paper Mills Ltd

Jurisdiction of courts and Arbitration Section 20 (1) - Territorial jurisdiction-Purchase of machinery-Whole transaction from submission of quotation, accepting order and receiving payment handled by Branch office of manufacturer at Delhi--Mere mention of "subject to Bombay jurisdiction" in quotation will not oust jurisdiction of Delhi Court.

The payments to the defendants were made at Delhi. From the foregoing, it would be seen that the cause of action for suit had arisen in Delhi. Merely, because one of the standard printed terms of the quotation, mentioned, subject to "Bombay jurisdiction", it cannot exclude the Delhi jurisdiction. It was not an exclusionary clause. Thus the Courts at Delhi would have jurisdiction being a place where the defendant Corporation was having its divisional or subordinate office and the place where the cause of action arose.

2001 (3) KLT SN 53 P 39 Baldev Steel Ltd v/s Empire Dyeing and Manufacturing Co. Ltd

Exparte decree Civil Procedure Code - O.9, R.13 and O.43 R.1 –

Conditional setting aside of exparte-decree imposing security for the entire plaint amount – Not justified.

The defendants were set ex parte. Along with the petition to restore the ex parte order, he also filed a written statement. The lower court has allowed the application on condition that security is given for the entire plaint amount. The counsel for the appellants attacks this condition. Going by the reason given by the appellants, we are of the view that the lower court ought not have imposed such a condition.

2000 (3) KLT SN 70 P 65 DB Kerala Packaging Pvt. Ltd v/s M/s Ramalinga Iyer

Construction of documents Civil Procedure Code - Section 100 – Construction of documents would be a substantial question of law.

Construction of documents would be a substantial question of law is now a well settled proposition. *In this judgment* **AIR 1928 PC 172, 1996 (7) SCC 389** *and* **1999 (9) SCC 237** *are relied on.*

2000 (3) KLT SN 49 P 45 = JT 2000 (9) SC 233 DB Santakumari v/s Lakshmi Amma

Exparte decree Civil Procedure Code - O.9, R.8 – When the plaintiff is absent, in no case, unless the claim is admitted, the trial court can decree the suit.

When the plaintiff is absent, in no case, unless the claim is admitted, the trial court can decree the suit. This is an indication that the trial court, in such situation, cannot go into the merits of the case, because if it come into the merits, it is possible to decree the suit. But R.8 of O.9 does not give power to the trial court to decree the suit when the plaintiff is absent, in the absence of admission of the claim. That means the dismissal of the suit, in the absence of the plaintiff, shall be a dismissal without going into merits or as often said, "dismissal for default". Dismissal of suit on merit will also not come within such order as the Court may think fit as mentioned in O.17, R.2. *In this judgment* **1987 (2) KLT 562** *and* **AIR 1987 Bom 87** *are referred to.*

2000 (1) KLT 221 Thankappan v/s Achuthan

Substantial question of law Civil Procedure Code - Section 100 – The mere appreciation of the facts, the documentary evidence or the meaning of entries and the contents of the document cannot be held to be raising a substantial question of law.

The allotment made jointly to 4th and 5th groups as per Ext. B16 after allotting plot C to the 4th group, was only in respect of the building in plot C shown in the plan. The documentary evidence or the meaning of entries and the contents of the document cannot be held to be raising a substantial question of law. Therefore there arise no substantial question of law in this Second Appeal with reference to the contents of the said document, Ext.B16. *In this judgment* **AIR 1999 SC 2213** *is followed.*

2000 (1) KLT SN 42 P 37 = 2000 (1) KLJ 224 Kunhaliyumma v/s Kuttu

Amendment of plaint Civil Procedure Code - O.6, R.17 – When the amendment introduces a new case which is totally different from the one pleaded and where such amendment would deprive the other side of benefit of admissions and will be

prejudiced, the amendment cannot be allowed.

However, no amendment will be allowed if its effect is to take away a valuable right that has accrued to the opposite party by lapse of time. Applications for amendments made with malafides will not be favourably considered. All amendments will be allowed, if they satisfy the test of not working out injustice to the other side and if it is necessary for the purpose of determining the real question in controversy between the parties. Where the amendment introduces a new case which is totally different from the one pleaded and where the consequences of such amendment would be to deprive the other side of the benefit of the admissions and where such opposite side will be irretrievably prejudiced, the amendment sought for will not be allowed. *In this judgment* **AIR 1977 SC 680, AIR 1972 Guj 152, AIR 1974 P&H 247, AIR 1978 SC 484** *and* **AIR 1978 SC 484** *are referred to.*

1999 (3) KLT 809 = 1999 (2) KLJ 947 Chandran v/s Gopalan

Suit for damages Civil Procedure Code - Sections 100 and 102 – Suit for damages for Rs.1000/- Even if the suit is not in the nature of small cause suit, the second appeal will not lie if the pecuniary value does not exceeds Rs.3000/-

S.12 of the Act provides a pecuniary limit of Rs.1000/- for small cause suits. But the pecuniary limit contained in S.102 of the CPC is Rs.3000/- Thus it is clear that S.102 of the CPC has brought within its fold certain suits which are not pure small cause suits in terms of S.12 of the Kerala Small Causes Courts Act, 1957. Added to this is the words 'of the nature cognizable by the Courts of Small Causes' to indicate something more than the suits cognizable by Courts of Small Causes. The amount of value of the subject matter of the Original Suit, wherefrom this Second Appeal arises, does not exceed Rs.3000/-. Therefore this Appeal is not maintainable and is dismissed.

1999 (3) KLT 205 = 1999 (2) KLJ 286 Pariyaram Panchayat v/s Damodaran Nair

Written statement Civil Procedure Code - O.8, R.10 and O.12, R.6 – Non-filling of written statement – It is a matter of court's satisfaction that there is no fact to be proved on admission, that judgment can be passed – Even such judgment ought to be in accordance with law, by setting out reasoning.

Before passing the judgment against the defendant it must see to it that even if the facts set out in the plaint are treated to have been admitted, a judgment could possibly be passed in favour of the plaintiff without requiring him to prove any fact mentioned in the plaint. It is a matter of Court's satisfaction and, therefore, only on being satisfied that there is no fact which need be proved on account of deemed admission, the Court can conveniently pass a judgment against the defendant. Under O.8, R.10, the Court has to write a judgment which must be in conformity with the provisions of the Code or at least set out the reasoning by which the controversy is resolved. *In this judgment* **AIR 1955 SC 425, AIR 1982 J&K 93, AIR 1983 All 130, AIR 1979 Raj 215, AIR 1981 Goa 61, AIR 1958 SC 886** *and* **AIR 1982 All**

RC 562 *are referred to.*

1999 (3) KLT SN 81 P 78 = JT 1999 (6) SC 473 SC DB Balraj Taneja v/s Sunil Madan

Mixed question of law and facts Civil Procedure Code - Section 100 – Law and Facts – Mixed question- Cannot be raised for the first time in the Second Appeal.

Whether in a suit for declaration the trial court is not bound to raise an issue as to the extent of damages that would be caused on the serviant tenement. This is a mixed question of law and facts.

1999 (2) KLJ 1084 Mariamma and othes v/s Kalyani Amma and another

Ex-parte decree Civil Procedure Code - O.9, R.13 – Petition filed to set aside ex-parte decree – Transfer of jurisdiction over the property of the court to another court – Only the court which passed the decree has jurisdiction to set aside the ex-parte decree and not the new Court.

Any case in which a decree is passed ex parte against a defendant, he may apply to the Court by which the decree was passed for an order to set it aside. The Court which passed the ex parte decree in the present case is the Sub Court, Kottayam. Therefore, the application under O.IX R.13 would be maintainable before the Sub Court, Kottayam and there was no lack of jurisdiction in that Court in passing orders on that application.

1999 (2) KLT 652 = 1999 (2) KLJ 41 = ILR 1999 (3) Ker 77 DB Govinda Pillai v/s State of Kerala

Marking of exhibits Civil Procedure Code - O.13, R.1 – When documents are marked as exhibits without objection of a particular party, that party cannot raise the objection that the said document has not been admitted in evidence.

Under O.13, R.1 CPC the parties or their Pleaders shall produce at or before the settlement of issues all the documentary evidence in their possession or power on which they intend to rely. The court after receiving the documents so produced, there shall be endorsed on every document which has been admitted in evidence in the suit as required under R.4. When documents are so marked as exhibits without objection of a particular party, that party cannot raise the objection that the said document has not been admitted in evidence. *In this judgment* **AIR 1929 PC 110** *and* **1961 SC 1655** *are relied on.*

1999 (2) KLT 617 = 1999 (2) KLJ 79 = ILR 1999 (3) Ker.71 State of Kerala v/s Saidali. *(Held per incurium in* **1999 (3) KLT 841***)*

Suit against a public officer Civil Procedure Code - Section 80 – Suit for damages against the public officer – Notice under Section 80 issued only to the Government – If the relief is sought for against the public officer and the State, notice before filing the suit is mandatory – If the public officer is impleaded as a state agent and if no relief is claimed against him, separate notice not mandatory.

Before filing the suit, a notice under S.80 was issued to the State of Kerala.

But no notice had been issued to the respondent. The allegation against him is that he was negligent and also he had destroyed or concealed some important case sheets and diaries. The first point is that the plaintiffs have prayed for a decree against the first respondent also. The first respondent was a doctor in the Government hospital and he was discharging the duty as Public Officer. In this case there is a relief against the first respondent. In that view of the matter, notice is necessary.

1999 (2) KLT 112 Sarangadharan v/s Dr. Vijayan

Transfer of cases Civil Procedure Code - Section 24 – Transfer of cases – Transfer not allowable merely because opposite party has no objection.

1999 (1) KLJ 530 SC DB Mahabir Prasad Singh v/s Jacks Aviation Pvt. Ltd

CONTEMPT OF COURTS

Appeal filed against reference Contempt of Courts Act, 1971 - Section 19 - Single Judge holding that a prima facie case has been made out and matter referred to Division Bench - Appeal filed against the reference order is maintainable.

2005 (3) KLT 574 DB Mohandas v/s Ashokan

Comments against Judges Contempt of Courts Act, 1971 - Section 2 (c) - Comment that a Judge about to retire is available for sale and that judiciary has no guts, not honest and is not powerful enough to punish wealthy people would bring administration of justice into ridicule and disrepute and amounts to contempt. *In this judgment* **AIR 1936 PC 141, AIR 1953 SC 75, AIR 1954 SC 10, AIR 1971 SC 221, 1971 (1) SCC 626, 1978 (3) SCC 339, 1988 (3) SCC 167, 1993 supp (4) SCC 446, 1996 (6) SCC 510, 1996 (5) SCC 216, 2001 (6) SCC 735, 2002 (3) SCC 343, 1976 (1) SCC 975, 2001 (3) SCC 739, 2001 (7) SCC 530, 2002 (4) SCC 21, 2003 (3) SCC 427, AIR 2003 SC 657** *and* **1969 (3) All ER 1062 CA** *are referred to.*

2005 (2) KLT SN 71 C 85 SC DB Rajendra Sail v/s MP High Court Bar Association

Challenging correctness of earlier decision Contempt of Courts Act, 1971 - Section 2 - Exercise of Contempt jurisdiction - It is not permissible for Court to examine correctness of earlier decision, non-compliance of which is alleged - It cannot test correctness or otherwise of that order or give additional direction or delete any direction. *In this judgment* **M.J.C. No. 1739** *of* **1999 Pat** *is reversed and* **2001 (10) SCC 496, 1995 (5) SCC 619, AIR 1994 SC 308** *and* **AIR 1994 SC 2252** *are referred to.*

2005 (1) KLT SN 12 SC DB State of Bihar v/s Rajendra Singh

Contempt of Courts Section 15 (2) & (1) :- Section 15 (2) does not restrict the power of the High Court to take congnizance of the contempt of itself or of a subordinate court, its own motion even if the Advocate General has not granted the consent sought for in a given case. *In this judgment* **1995 (2) KLT 347 Nagappan v/s Mani** *is held per incuriam,* **AIR 1986 Pat 65 Harish Chandra v/s Justice Ali**

Ahamed *is dissented from and* **AIR 1987 SC 1451 Conscientious Group v/s Mohammed Yunns, 1991(4) SCC 406 Delhi Judicial Service Association Case, 1979 KLT 262 Jose v/s Alice Francis** *and* **AIR 1982 SC 904 Pritam Pal v/s High Court of M.P.** *are referred to.*

1999 (3) KLT 165 = 1999 (2) KLJ 697 DB Joseph Kuzhijalil v/s Joseph Pulikunnel

Contempt of Courts The advocate who drafts and / or settles an offending documents also commits contempt of the court as the author of the document.

1999 (3) KLT SN 64 DB Salim v/s Kerala State Beverages Corporation (M & M) Ltd

Contempt of Courts The abuses, attribution of motives and indecent attacks on the impartiality of judges in the pleadings filed in court or otherwise published, no doubt amounts to Criminal Contempt of Court.

1999 (3) KLT SN 64 DB Salim v/s Kerala State Beverages Corporation (M & M) Ltd

Contempt of Courts Sections 2 & 12 of Contempt of Courts Act, 1971 - Scurrilous attack on the integrity honesty and judicial impartiality of a judge of a High Court. Such Conduct Constitute Contempt of Court.

1999 (3) KLT SN 47 DB Lokanath Mishra v/s State of Orissa

Contempt of Courts Sections 2 & 12 - Role of the Press in publishing contemptuous statements made and making observations on the conduct of the Court.

1999 (3) KLT SN 47 DB Lokanath Mishra v/s State of Orissa

Contempt of Courts Section 12 - Violation of judgment of the High Court banning smoking in public places. Accused is liable to be punished under Section 12 of the Contempt of Court Act. The action of the authorities in not enforcing the order of ban of smoking is a challenge to the very rule of law.

1999 (2) KLJ 1086 DB Dr. Nehru John Varghese v/s Babu

Contempt of Court Contempt of Courts (High Court of Kerala) Rules, 1971, Rules 15 & 5 A - Rule 15 contemplates Advocate General to appear and conduct the proceedings against the contempt-It is not proper for the Additional Advocate General to appear and defend the contemnor.

In order to see that the orders of this Court are obeyed even at the initial stage itself, Rule 5 A contemplates a copy of the petition being furnished to the Advocate General. The Additional Advocate General cannot take a contrary stand in support of the respondent who would be charged for disobedience of the orders of this Court. Section 15 of the Contempt of Courts Act. 1971 contemplates taking cognizance of criminal contempt only on its own motion or on a motion made by the Advocate General. It is for the Advocate General to look into the contempt petition before launching the criminal contempt against the respondent. It will not be proper for the Additional Advocate General to appear and defend the respondent. It will be against the letter and spirit of the rules framed under the Contempt of Courts Act and the Contempt of

Courts Act itself. *In this judgment* **1995 4 SCC 1 T.M.A. Pai Foundation v/s State of Karnataka** *is referred to.*

1995 (2) KLT 741 = ILR 1996 (1) Ker 529 Aloysius v/s Sarada Muraleedharan

RES JUDICATA

An issue already settled Res judicata - An issue already settled in a suit between the same parties in respect of certain subject matter, cannot be allowed to be raised again between the very same parties in regard to the same subject matter, but in a different suit.

2005 (2) KLT SN 80 C 95 SC DB Amarendra Komalam v/s Usha Sinha

Judgment contrary to the existing law Res judicata - If the earlier judgment which is sought to be made the basis of res judicata is delivered by a Court without jurisdiction or is contrary to the existing law at the time the issue comes up for reconsideration, such earlier judgment cannot be held to be res judicata in the subsequent case, of course, protected by any special enactment. *In this judgment* **AIR 1971 SC 2355, AIR 1979 SC 193, 2004 (3) SCC 1** *and* **2005 (3) SCC 232** *are relied on.*

2005 (2) KLT SN 76 C 89 SC FB Shakuntla Devi v/s Kamla

Plea of Res judicata Civil Procedure Code - Section 11 – Plea of res judicata – Plea was not taken by the Revenue at any stage before any of the authorities, but arguments exactly to the contrary had been put forward by it – That plea cannot be permitted to be raised at this stage – See – Central Excise Act, 1944 – S.35L(b)

2004 (7) SCC 591 DB ITC Ltd v/s Commissioner of Central Excise, New Delhi and another

Res judicata when appeal filed by one of several defendants Civil Procedure Code - Section 11 – Res Judicata – Appeal filed by one of several defendants – Subsequently Co-defendant filed another appeal – It dismissed for default – An order dismissing a subsequent appeal for default can not operate as res judicata in respect of an earlier appeal.

It is not possible to accept that the principle of res judicata will apply to bar the appeal. S.11 CPC would bar the Court from trying any suit or issue in which the matter "directly and substantially in issue" between the same parties or between the parties under whom they or any of them claim, litigating under the same title in a Court competent to try such subsequent suit or suit in which such issue has been subsequently raised, has been "heard and finally decided by such Court". Neither S.11 CPC, nor any principle derivable therefrom, would bar the appeal as contended by the respondents. The contention is misconceived and we see no merit in the contention. In our judgment, the appeal is perfectly maintainable.

2004 (2) KLT SN 120 = 2004 (5) SCC 272 = AIR 2004 SC 2546 FB Bajrangal S. Ruia v/s Shashikant N. Ruia

Basic method to decide the question of res judicata Civil Procedure Code - Section 11 – Res judicata – Basic method to decide the question of res judicata –

Earlier suit was confined to a small portion of the entire property now in suit and a decision as to a specified part of the property could not have necessarily constituted res judicata for the entire property, which was now the subject matter of litigation. *In this judgment* **AIR 1936 Privy Council 258, AIR 1948 Privy Council 3, AIR 1965 AP 177, AIR 1963 Pun 9** *and* **AIR 1929 Cal 163** *are affirmed,* **1970 (3) SCC 656, 1976 (4) SCC 780** *and* **1964 (7) SCR 831** *are relied on and* **AIR 1949 Privy Council 302** *is distinguished.*

2004 (1) SCC 551 DB V. Rajeshwari v/s T.C. Saravanabava

Applicability of Res judicata Civil Procedure Code - Section 11 – applicability of doctrine of res judicata to industrial disputes – It is the Courts which are prohibited from trying the issue was directly and substantially in issue in the earlier proceedings between the same parties, provided the Court trying the subsequent proceeding is satisfied that the earlier Court was competent to dispose of the earlier proceedings and that the matter had been heard and finally decided by such Court. *In this judgment* **1977 (2) SCC 806, AIR 1974 SC 1132, 1978 (3) SCC 119** *and* **AIR 1989 SC 1764** are referred to.

2004 (1) SCC 68 DB Pondicherry Khadi And Village Industries Board v/s P. Kulothangan and another

Decision being exparte or biparte Doctrine of Res judicata - The applicability of Res judicata does not depend on the decision being exparte or biparte - The party is as much bound by an exparte decree as by a contested one - All that necessary is that the defendant should have express notice of the pleadings and the prayer that a particular issue or matter would be decided.

2003 (2) KLT SN 29 DB Menon v/s Panchitra

Constructive res judicata Res Judicata - Application under S.34 of Kerala Land Reforms Act for assignment of the appurtenant land - At the time of suo motu proceedings no right of assignment was accrued - Question of res judicata or constructive res judicata does not arise - Only an existing right can be abandoned - See - Civil P.C. 1908.

2002 (2) KLT 769 = 2002 (2) KLJ 54

Withdrawal of Original Petition Res Judicata - Withdrawal of Original Petition does not affect the respondents to claim the benefits available departmentally - See - Constitution of India.

2002 (1) KLT 792 Manager, V.P.S.H.S. School For Boys v/s State of Kerala

Recording of the Legal Representatives Section 11 & Order 22, Rule 5 - Recording of the Legal Representatives under Order XXII Rule 5 will not operate as res judicata in any subsequent proceedings between the same parties or affect the claim in the probate proceedings with regard to the genuineness of the will.

It is clear that the contention raised by the petitioner that the orders passed by the lower court negativing the contentions raised by the petitioner under Order 22, Rule 5 of CPC are not sustainable, is of no force. Hence, these CRPs are dismissed.

But the impugned orders passed by the lower court under Order 22, Rule 5 in the above cases will not operate as res judicata against the petitioner in any subsequent proceedings between the same parties or affect his claim in the probate proceedings with regard to the genuineness of the Will. *In this judgment* **AIR 1981 P&H 130 FB** *is followed and* **AIR 1975 Mad 174, AIR 1953 Trav Co. 158** *and* **AIR 1960 Ker 79** *are referred to.*

2001 (2) KLT 360 = 2001 (1) KLJ 471 Govindan Nair v/s Janaki Amma

Findings in probate proceedings Section 11, Explanation VIII - Grant of Succession Certificate in probate proceedings - Findings given therein does not operate as res judicata in a subsequent suit--See--Succession Act, 1925, Section 387.

2001 (1) KLT SN 1 P 1 SC FB Joginder Pal v/s Indian Red Cross Society

Special leave petition Constitution of India - Article 136 – Dismissal at stage of special leave without reasons – There is no resjudicata or merger.

What has been stated by this Court applies also to a case where a special leave petition having been dismissed by a non-speaking order the applicant approaches the High Court by moving a petition for review. May be that the Supreme Court was not inclined to exercise its discretionary jurisdiction under Art.136 probably because it felt that it was open to the applicant to move the High Court itself. As nothing has been said specifically in the order dismissing the special leave petition one is left merely guessing. It cannot be said that the mere rejection of special leave petition could, by itself, be construed as the imprimatur of this Court on the correctness of the decision sought to be appealed against. *In this judgment* **1997 (6) SCC 78** *and* **1996 (3) SCC 463** *are dissented from and* **1996 (7) SCC 1, 1978 (3) SCC 119, 1989 (4) SCC 187, AIR 1986 SC 1780, AIR 1989 SC 674, AIR 1958 Mad 398** *and* **JT 2000 (4) SC 473** *are followed.*

2000 (3) KLT 354 SC FB Kunhayammed v/s State of Kerala

Earlier suit for damages Civil Procedure Code - Section 11 – The findings of the civil court on an issue of title entered in an earlier suit for damages will operate as res judicata in a subsequent suit for recovery of possession on the basis of title.

Even the decree founded on equitable relief if one issue arose directly and substantially is decided by the court and attainted finality, it would operate as res judicata in a subsequent suit based on title where the same issue directly and substantially arises between the parties. Circumstances are similar, in the case on hand, when the parties went on trial with regard to the issue relating to title in a suit for damages and where the decision on that issue was very material and essential. That finding had been confirmed by this Court and thereafter it remains unchallenged. In such circumstances the plaintiffs cannot avoid that finding to contend that it does not operate as res judicata. *In this judgment* **1994 (2) SCC 14, 1985 KLT 181** *and* **1988 (2) KLT 727** *are relied on.*

2000 (2) KLT 501 = 2000 (1) KLJ 557 Krishna Iyer v/s Kunnath Chelan Avvokkar

Decision in a Writ Petition Res Judicata – A decision on an issue raised in a Writ Petition under Art.226 or 32 would also operate as res judicata between the same parties in subsequent judicial proceedings.

The only exception is that the rule of res judicata would not operate to the detriment or impairment of a fundamental right. The basis on which the rule rests is found on consideration of public policy and it is in the interest of the public at large that a finality should attach to the binding decision pronounced by a Court of competent jurisdiction and it is also in the public interest that individuals should not be vexed twice over in the same kind of litigation. *In this judgment* **1998 (4) SCC 361** *and* **1999 (5) SCC 590** *are followed and* **1996 (1) SCC 435** *is referred to.*

2000 (1) KLT 458 Devaki v/s State of Kerala

Price of an article Resjudicata – There arise no resjudicata in respect of price of an article, even if in an earlier suit between the parties it had been found that a particular article did have a particular price.

There arise no resjudicata in respect of price of an article, even if in an earlier suit between the parties it had been found that a particular article did have a particular price. That will not act as resjudicata, because on a later state, because of the market fluctuations and due to iinnovative technologies in the field of production, the price may very in either direction. Then parties to the said litigation will have to pay varied price.

2000 (1) KLT 278 = 2000 (1) KLJ NOC 2 Govinda Bhat v/s Sham Bhat

Dismissal of an application for joint trial Res judicata – When applies to an order of dismissal of an application for joint trial – The principle of res judicata is not applicable to all kinds of interlocutory orders.

If the rule of res judicata is applicable to a case, the second application will be liable to be rejected irrespective of the question whether fresh facts are placed before court. A fresh investigation would be barred in such cases even if there is change in the fact situation. On the other hand where the principle, as such is not applicable. Courts will be justified in disposing of the second petition based on the facts as available at that time.

Joint trial of cases is done not by virtue of any specific power conferred by the CPC; but in exercise of the inherent powers of the Court. Nevertheless, it is a step adopted to ensure just, smooth, orderly and expeditious disposal of suit. As such the same court which decided against joint trial is not bound finally by that order at later stages so as to preclude its being considered. In other words the Rule of Res Judicata does not apply as such to such an order. That however, does not men that on every subsequent day on which the suit stands adjourned the petition could be repeated and fresh orders sought on identical facts. All the same, if there is change of circumstances or if fresh facts are placed before Court there will be no legal bar for fresh consideration of the question with reference to the new facts and situations. *In this judgment* **AIR 1964 SC 993** *is relied on.*

1999 (3) KLT 856 = 1999 (2) KLJ 1021 Mohammed Kunhi v/s Janaki Amma

When an original petition is withdrawn Article 226 - When an original

petition is withdrawn, without permission to file a fresh one, the petitioner cannot file another one impugning the self same order except in cases where personal liberty of an individual is involved. This ban is based on a public policy as contained in Order XXIII Rule 1 of the Code of Civil Procedure, That Public policy has been made applicable to the proceeding under Art. 226 of the constitution. *In this judgment* **1987 (1) SCC 5 Saraguja Transport Service v/s State Transport Appellate Tribunal M.P. Gwalior and others** *and* **1999(1) SCC 81 Upadhyay and Co. v/s State of U.P. and others** *are followed.*

1999 (1) KLT 776 = 1999 (1) KLJ 619 Narayanan Achari v/s State of Kerala

The bar of constructive res judicata Res judicata - The bar of constructive res judicata will apply only if a party omits to include one of the several causes of action arising out of the same set of facts and not when different and independent causes of action arise out of altogether different set of facts-Different causes of action under different sub-section of Section 11 arise out of different set of facts and can never be considered as arising out of same set of facts, so as to attract the bar of constructive res judicata-Buildings (Lease & Rent Control) Act, 1965, (Kerala), Sections 11 & 15.

The General principle of res judicata applies to cause of action and issues decided already in earlier proceedings. The bar of 'cause of action estoppel' which is part of the doctrine of res judicata under English Law will apply only in cases where there is identity of causes of action. But in India the principle applies even in cases where causes of action are different, if they arise out of the same set of facts. In the case of issues also identity is essential.

1998 (1) KLT SN 2 P 3 DB Govindan v/s Abdul Karim Subaida Beevi

If a party omits to include one of the several causes of action arising out of the same set of facts Res judicata - Only applies if a party omits to include one of the several causes of action arising out of the same set of facts - Will not preclude a landlord from claiming eviction on any one of the grounds mentioned in Section 11 after an adverse finding in an earlier petition for eviction filed on some other grounds under that section.

Even recognising the difference between English Law and Indian Law it is clear that the bar of constructive res judicata will apply only if a party omits to include one of the several causes of action arising out of the same set of facts and not when different and independent causes of action arises out of altogether different set of facts. Different causes of action under different sub-section of Section 11 of the Act arises out of different set of facts and can never be considered as arising out of same set of facts so as to attract the bar of constructive res judicata. *In this judgment* **AIR 1977 SC 1680 State of U.P. v/s Nawab Haussain** *is relied on and* **AIR 1972 Delhi 150 S.R. Singh v/s Royal Studios** *is dissented from.*

1997 (1) KLT 910 = 1997 (1) KLJ 724 = ILR 1997 (3) Ker 360 = AIR 1998 Ker 50 Govindan v/s Subaida Beevi

Writ Petition dismissed in limine on merits Article 226 - Writ Petition dismissed in limine on merits - Second Writ Petition is barred by principles of resjudicata.

Principles of resjudicata will be applicable to proceedings under Article 226 of the Constitution. Principles of constructive resjudicata will also apply to proceedings under Article 226 of the Constitution. A Division Bench of this Court considered the contentions and gave opinion on merits and therefore the above dismissal will bind the petitioners and similar contentions cannot be allowed to be raised by them as it is barred by principles of resjudicata.

1996 (1) KLT 631 = 1996 (1) KLJ 782 = ILR 1996 (2) Ker 675 = AIR 1996 Ker 337 Kandankutty v/s State

Writ petition dismissed at the admission stage Article 226 - Practice and Procedure - Writ petition dismissed at the admission stage without the Judge going into merits of contentions - Subsequent writ petition by same petitioner for same relief - Decision in earlier petition may not strictly operate as res judicata - But practice similar to resorted by petitioner should be curbed.

AIR 1996 Ker 102 K. Sreekala (Minor) v/s The Manager, S.N.V.T.T.I. and others

NATURAL JUSTICE

Enquiry Officer's findings in favour of delinquent Natural Justice – Enquiry Officer's findings in favour of delinquent - Even through the rule does not contemplate giving an opportunity to the delinquents before the disciplinary authority take a final decision to disagree with the reasons given by the enquiry officer, such a provision could be read into the rule but even the appellants cannot be heard to say that there shall be a personal hearing by the disciplinary authority – See – Service.

2004 (8) SCC 653 DB J.A. Naiksatam v/s Prothonotary and Senior Master, High Court of Bombay and others

Non supply of copy of enquiry report to delinquent Natural Justice – Departmental enquiry – Non supply of copy of enquiry report to delinquent – It is not possible to appreciate the reasoning of the High Court in the instant case that in addition to the procedural infirmity of non supply of enquiry report, there being non compliance with clause 14(4)(c) of the Model Standing Orders requiring grant of opportunity of hearing against proposed penalty, the employee has to be granted relief of reinstatement with full back wages and the employer can be given liberty to hold a de novo enquiry – See – Service.

2004 (7) SCC 581 = AIR 2004 SC 4255 DB NTC (WBAB and O) Ltd and another v/s Anjan K. Saha

Natural Justice cannot be put in a straitjacket formula Natural Justice – Principles of natural justice should not be stretched too far and the same cannot be put in a straitjacket formula – Respondent has been found guilty of an act of fraud – Hence

no further opportunity of hearing is necessary to be afforded to him. *In this judgment* **2004 (6) SCC 311 Bar Council of India v/s High Court of Kerala, 2003 (7) SCC 492 Sohan Lal Gupta v/s Asha Devi Gupta, 2004 (4) SCC 311 = 2004 (4) Scale 338 Madia Chemicals Ltd v/s Union of India, 2003 (4) SCC 557 = 2003 SCC (L&S) 507 Canara Bank v/s Debasis Das, 1985 (3) SCC 398 = 1985 SCC (L&S) 672 Union of India v/s Tulsiram Patel, 2003 (8) SCC 319 Ram Chandra Singh v/s Savitri Devi, 1889 (14) AC 337 Derry v/s Peek, (1886-90) All ER Rep 1, 58 LJ Ch 864** *and* **61 LT 265 HL** *are relied on.*

2004 (6) SCC 325 FB Vice Chairman, Kendriya Vidyalaya Sangathan and another v/s Girdharilal Yadav

Justice should not only be done but also seen to have been done Natural Justice – Bias – Judge was right in hearing and deciding the revision on merits when it was argued before him – However, on the principle that justice should not only be done but also seen to have been done, set aside both the orders passed by the Single Judge and restore the revision petition for hearing afresh before the High Court by another Judge.

The appellant would have never filed the review/recall petition if only he would have succeeded in revision. He became wiser only after the revision was dismissed. We cannot countenance such activity of misadventure on the part of the litigants almost laying traps for the judges who are already overburdened with heavy list of the matters for hearing and many a times have to rush through to clear the day's cause list. In our opinion, the learned Judge was right in hearing and deciding the revision on merits when it was argued before him without any demur and without seeking reclusion from the Judge.

2004 (2) KLT 370 = 2004 (3) SCC 437 = AIR 2004 SC 4004 DB Mohan Lal Aggarwal v/s Atinder Mohan Khosla

Right to reasons Civil Procedure Code - Order 20 Rule 4 (2), Order 20 Rule 5 – Proper mode of disposal of appeal against acquittal – Cardinality of recording of reasons for decision – Right to reasons is an indispensable part of a sound judicial system – One of the salutary requirements of natural justice is spelling out reasons for the order made – See – Criminal P.C., 1973 – Sections 378 and 386

2004 (1) SCC 547 = AIR 2004 SC 1203 DB State of Punjab v/s Bhag Singh

Delay between hearing and passing final orders Constitution of India - Article 226 – Delay between hearing and passing final orders – It is considered as an illegality for violating the principles of natural justice – It gives rise to a cause of action to the concerned parties and not to a stranger.

The Petitioner, who is a stranger, cannot complain of the delay in disposing of an appeal. The delay between hearing and passing final orders is considered as an illegality for violating the principles of natural justice. If a matter is heard and reserved for a long period, the Judge or the administrator will forget all the arguments addressed. So, if the order is passed after the lapse of a long spell, it may amount to an order

passed without hearing. Violation of the principles of natural justice gives rise to a cause of action only to the concerned parties and not to a stranger to the proceeding like the petitioner.

2004 (1) KLT 383 = ILR 2004 (1) Ker 313 Sooryanathan v/s State of Kerala

Civil consequences Article 14 of Constitution - Rules of natural justices - Apply to administrative orders having civil consequences - Expression "civil consequences" - scope of.

2003 (3) KLT SN 146 = 2003 (4) SCC 557 = AIR 2003 SC 2041 = JT 2003 (3) SC 183 DB Canara Bank v/s Debasis Das

Natural Justice is another name for common sense justice Article 14 of Constitution - Natural Justice - It is another name for common sense justice - Natural justice relieves legal justice from unnecessary technicality gramatical pedantry or logical prevarification - It supplies the omission of a formulated law.

2003 (3) KLT SN 146 = 2003 (4) SCC 557 = AIR 2003 SC 2041 = JT 2003 (3) SC 183 DB Canara Bank v/s Debasis Das

Termination of Service Natural Justice – Termination of Service – Suppression of relevant information in the attestation from – Could not have given any explanation even of notice was issued prior to termination of service – Termination proper – See – Service.

2003 (1) KLT SN 39 = ILR 2003 (1) Ker 491 DB Raphy Xavier v/s Union of India

Natural justice and Disciplinary proceedings Natural Justice--Disciplinary authority while overruling the findings of enquiry officer, should hear the delinquent - Overruling of the findings without notice or hearing is unsustainable in law as there is violation of principles of natural justice - See - Service.

2002(1) KLT SN 98 Shajimon v/s State of Kerala

Government authorities Natural Justice - Government authorities should be fair, reasonable and alive to the situation. They cannot act in an arbitrary manner--Rule of law should prevail.

AIR 2002 SC 1205 = 2002 (3) SCC 451 DB V.C. Mohan v/s Union of India and others

Statutory tribunal Natural Justice - Order passed by a person who had not heard the case in a statutory revision--Being an institutional decision and being a statutory order in a statutory revision and objectively in accordance with law does not violate principles of natural justice.

It is a fairly settled position in law that if the decision impugned is one of a statutory tribunal which must decide according to law, the violation of natural justice can be ignored, if the petitioner does not have a case on merit. But, where the decision is rendered in the discretion of the decision maker, the personal hearing may change his heart. Therefore, lack of hearing would cause serious prejudice. In the case at hand, the decision being an objective decision in accordance with law, violation of the

principles of natural justice can be ignored.

2002 (1) KLT 882 Katherine v/s Secretary to Government

Public interest Natural Justice--Principle of natural justice has to be subservient to public interest.

Principles of natural justice are for ensuring a fairness in approach. They have to be applied depending on the particular facts. 'Justicia naturalis' is justice as defined in a moral as opposed to legal sense. The cardinal issue appears to be public interest. It is not only the contractual rights between two parties, that is involved, but the transactions directly affect the rights of third persons. His presence cannot be ignored. I am of the opinion that even principles of natural justice have to be subservient to public interest, as the well being of citizens are the ultimate aim of regulations. The procedure for sampling is in vogue for years, and the inherent risk voiced by the petitioner are per se flimsy.

2002 (1) KLT 296 = 2002 (1) KLJ 186 Pratheesh Fuels v/s Indian Oil Corporation Ltd

Action of the State Natural Justice – Every action of the State uninformed by reason is arbitrary – Diluting the percentage of reservation of Hindu Nadars without hearing the affected is arbitrary – Actions of State uninformed by reason are liable to be questioned under Art.226 – See – Constitution of India, Arts.226 & 14.

2000 (3) KLT 740 DB Hindu Nadar Corporation v/s State of Kerala

Natural justice not a mere empty formality Natural justice – Principles of natural justice cannot be insisted as a mere empty formality when the only conclusion that can be arrived at even if opportunity had been rendered is one and the same – Constitution of India, Art.226.

Even if violation of the principle itself is a prejudice and no separate prejudice need be shown in case of violation, natural justice shall not be insisted as a mere empty formality when the only conclusion that can be arrived at even if opportunity had been rendered is one and the same. Where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is possible, the court may not issue its writ to compel the observance of natural justice not because it approves the non-observance of natural justice, but because courts do not issue futile writs". *In this judgment* **1980 (4) SCC 379 = AIR 1981 SC 136** *is followed.*

2000 (3) KLT SN 14 P 12 Saseendran v/s Commissioner and Secretary, Public Works & Transport (F) Department

Natural justice and Election Commission Natural justice – The function of the Election Commission in the matter of delimitation is adjudicative and not legislative – The principles of natural justice will apply – See – Panchayat Raj Act, 1994, Sections 10 and 10A.

2000 (3) KLT 45 = 2000 (2) KLJ 709 = AIR 2000 Ker 376 DB Kunhabdulla v/s State of Kerala

Administrative order Natural justice – Even an administrative order which involves civil consequences must be consistent with the rules of natural justice – Different aspect of natural justice – Matters to be considered.

Rules of natural justice are not rules embodied always expressly in a statute or in rules framed thereunder. The old distinction between a judicial act and an administrative act has withered away. Even an administrative order which involves civil consequences must be consistent with the rules of natural justice. Expression 'civil consequences' encompasses in fraction of not merely property or personal rights but of civil liberties, material deprivations, and non-pecuniary damages. In its wide umbrella comes everything that affects a citizen in his civil life. Over the years by a process of judicial interpretation two rules have been evolved as representing the principles of natural justice in judicial process, including there in quasi judicial and administrative process. They constitute the basic elements of a fair hearing, having their roots in the innate sense of man for fair-play and justice which is not the preserve of any particular race or country but is shared in common by all men. A corollary has been deduced from the above two rules and particularly the audi alteram partem rule, namely 'qui aliquid statuerit parte inaudita alteram actquam licet dixerit, haud acquum facerit' that is, 'he who shall decide anything without the other side having been heard, although he may have said what is right, will not have been what is right'. Or in other words, as it is now expressed, 'justice should no only be done but should manifestly be seen to be done'.

2000 (1) KLT 255 DB Remadevi v/s Calicut University

Natural justiceand termination of service Natural Justice – Termination of the service for unauthorised absence – Workman should be given sufficient opportunity to explain his case before ordering termination – The observance of the principles of natural justice is implied in every decision making function whether judicial, quasi-judicial or administrative – See – Industrial Disputes Act, 1947, S.2(oo).

2000 (1) KLT 43 DB Joy Xavier v/s Madura Coats Ltd

Payment of interest Natural justice – Liability for payment of interest is automatic and mandatory – Hence question of giving any show cause notice prior to the fixing of the liability for payment of interest, by an order, does not arise – There is no breach of any principle of natural justice as the assessee is entitled by the statute to apply for reduction or waiver of the amount by showing proper cause –See Income Tax Act, 1961, Ss.234A, 234B & 140A(1).

1999 (3) KLT 813 DB Commissioner of Income-tax v/s. Ramalingair

Speaking order Natural Justice – Necessity to pass a speaking order - A party has a right to know not only the decision but also the reasons in support of the decision. Reasoned orders are necessary if judicial review is to be effective. The condition to record reasons introduces clarity and excludes arbitrariness. The principle requiring reasons to be given in support of an order is a basic principle of natural

justice which must inform every quasi-judicial process and it must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law. *In this judgment* **1971 (1) All ER 1149** *is referred to.*

1999 (3) KLT 716 DB Razia Greens v/s State of Kerala

The requirement to follow the fair procedure Natural justice – Principles of natural justice have to be read into unoccupied interstices of the statute unless there is a clear mandate to the contrary. Natural Justice is an inseparable ingredient of fairness and reasonableness.

Even if a statute is silent and there are no positive words in the Act or Rules spelling out the need to hear the party whose rights and interests are likely to be affected, the requirement to follow the fair procedure before taking a decision must be read into the statute unless the statute provides otherwise.

1999 (3) KLT 480 = ILR 2000 (1) Ker 316 DB Rajendra Kurup v/s Union of India

The one who decides must hear Natural Justice – Affected party was heard by the Special Secretary and the order passed by the Additional Secretary – Is not proper - The one who decides must hear – Successor in office cannot pass an order in a matter heard by his predecessor, without hearing the affected – Rules of Business of the Government of Kerala, Rr.11 & 12.

The person who decides must apply his mind in which event every material even the comportment of the person who has been heard would oscillating a fresh in the mind. In such backdrop the decision making process would be serene and not shilly-shallying for the person who heard the matter. It would also ensure unimpaired contentment for the person who has been heard that his case has been properly analysed and understood. The additional counter affidavit avers that Sri. Sajan Peter, Special Secretary recorded his findings on 18.8.1997 and the Additional Secretary Sri K. Rajendran issued the impugned order on the basis of the findings of the Special Secretary. This would indubitably bring forth there was no independent application of the mind by the Additional Secretary while passing Ext.P5 order. The said order is therefore, invalid. *In this judgment* **1996 (1) KLT 133 Union of India v/s Andrew, 1924 (1) KB 256 The King v/s Sussex, Ex Parte Mc. Ewen** *and* **1947 (1) All ER 109 R.V. Bodmin Justice Ex Parte Mc Ewen** *are relied on.*

1999 (2) KLT 882 = 1999 (2) KLJ NOC 20 = ILR 1999 (3) Ker 570 DB Thomas Mathew v/s The Secretary to Government

Summoned person to be served with a copy of the complaint Natural Justice – Whom a person is summoned to appear before a statutory commission, he must be served with a copy of the complaint – Constitution of India, Art. 226.

The person summoned is directed to appear to answer the allegations against him. Without knowing what are the allegations against him it is impossible for a person to answer those allegations. Therefore, I think the first respondent is not justified in issuing summons without serving a copy of the allegations against him.

1999 (1) KLT SN 20 P 18 Tom v/s Kerala Women's Commission

Bias Natural Justice - Bias - Principal of bias on account of judicial obstinacy laid down-Judgment of single Judge overruled - Later the same Judge sitting in Division rewriting his earlier Judgment - Is improper.

Bias may be defined as a pre-conceived opinion or a pre-disposition or pre-determination to decide a case or an issue in a particular manner, so much so that such pre-disposition does not leave the mind open to conviction. It is , in fact, a condition of mind, which sways judgments and renders the Judge unable to exercise impartially in a particular case. Bias has many forms. It may be pecuniary bias, personal ias, bias as to subject matter in dispute, or policy bias etc. In the instant case, we are not concerned with any of these forms of bias. We have to deal, as we shall presently see, a new form of bias, namely, bias on account of judicial obstinacy. Judges, unfortunately, are not infaliable. As human beings, they can commit mistakes even in the best of their judgments reflective of their hard labour, impartial thinking and objective assessment of the problem put before them. If a judgment is overruled by the higher court, the judicial discipline requires that the Judge whose judgment is overruled must submit to that judgment. He cannot, in the same proceedings or in collateral proceedings between the same parties re-writ the overruled judgment. Even if it was a decision on a pure question of law which came to be overruled, it cannot be reiterated in the same proceedings at the subsequent stage by reason of the fact that the judgment of the higher court which has overruled that judgment, not only binds the parties to the proceedings but also the Judge who had earlier rendered that decision. That Judge may have his occasion to reiterate his dogmatic views on a particular question of common law or constitutional law in some other case but not in the same case. If it is done, it would be exhibitive of his bias in his own favour to satisfy his egoisitc judicial obstinancy.

1998 (1) KLT SN 93 P 92 = JT 1998 (3) SC 701 DB State of West Bengal v/s S. Patnaik

Quasi-judicial adjudication Natural Justice-The right to cross examine and the opportunity to produce evidence are not integral part of quasi-judicial adjudication.

This is a case where there were complaints against the petitioner who was only a honorary Homeo doctor. a committee of the Municipality visited the dispensary. At that time, the petitioner was present. The people of the locality who assembled there complained against the conduct of the doctor. Considering these matters the committee reported to the municipality. Thereafter, the petitioner was given a memo disclosing the relevant portions of the report of the committee. After getting the explanation from the fist respondent the petitioner's service were terminated. Considering these aspects in the light of well accepted principles enunciated by the Supreme Court with regard to the applicability of the natural justice we are of the opinion that in the bakground of facts and circumstances of ths case, and the nature of investigation conducted by the committee of the Municipality there is no infraction of the principles of natural justice. We are also convinced that there was no violation of principles of

natural justice by the absence of a formal opportunity to cross examine the persons.

1997 (2) KLT 278 = ILR 1997 (3) Ker 802 = 1997 (2) KLJ 345 Thripunithura Municipality v/s M. Leela

Procedural safeguards Natural Justice-When the principles are embodied in a statutory proviion, the statutory authorities are bound to obey the rule strictly.

It is well established that when a statute has conferred on any body the power to make any decisions affecting individuals, court will ensuire that the procedural safeguards as mentioned in the rules are followed, It is true that procedural objections are often raised by unmeritorious parties. Judges may then be tempted to refuse relief on the ground that a fair hearing could have made no difference to the result. But, in principle, it is vital that the procedure and the merits should be kept strictly apart, since otherwise the merits may be prejudiced unfairly.

1997 (2) KLJ 43 John and others v/s Joint Registrar and others

Supply of copies of the inspection report Notice requiring the Managing Committee to state their objections regarding allegations contained therein. Inspection reports mentioned in the notice as basis of action. In not supplying copies of the inspection report to the Committee members there is no violation of the principles of natural justice.

1993 (2) KLJ 197 M.M. Abdul Rahiman v/s Joint Registrar

Procedurally ultra vires action Non-intimation of date and time and place of hearing - Action procedurally ultra vires - Award of arbitrator held to be without jurisdiction-Co-operative Societies Act (25 of 1961) Section 55.

(Rule 53, Punjab Co-operative Societies Rule, 1963)

1975 PLJ 162

No opportunity given to the appellant to make his representation An order of the Government, passed in revision under Section 77 (1) is invalid where no opportunity has been given to the appellant to make his representation before the order was passed.

(Andhra Pradesh Co-operative Societies Act, 1964, Section 77 (2))

AIR 1977 SC 2313 = 1977 (13) Co-op LJ 129 = 1978 ISCJ 179 = 1977 UJ SC 651

Power is exercisable on objective standards Exercise of power under Section 138 by Registrar - Power is exercisable on objective standards and therefore, while exercising his powers under section 128 the Registrar must act in accordance with the principles of natural justice.

(Uttar Pradesh Co-operative Societies Act (11 of 1966), Section 128)

ILR 1976 (2) All 395 = 1976 All WC 788

ESTOPPEL

Promissory estoppel When can be invoked - In order to invoke the doctrine of promissory estoppel clear, sound and positive foundation must be laid in the petition itself and bald expressions without any supporting material would be sufficient - Courts are bound to consider all aspects including results sought to be achieved, public good

at large etc. - A claim based on merely legitimate expectation without anything more cannot ipso facto give a right.

2005 (1) KLT 601 SC Bannari Amman Sugars Ltd v/s Commercial Tax Officer Assets of Societies

Promissory Estoppel If the Government is satisfied that the change in policy was necessary in public interest it is not possible to assail the same on the ground of promissory estoppel – Doctrine of Legitimate Expectation.

If the Government is satisfied that the change in policy was necessary in public interest it is not possible to assail the same on the ground of promissory estoppel. Appellants were not thrown out of business. There is no stigma attached to them. Their recognition is not withdrawn. They are not blacklisted. They will carry on their business. All that was happened is that, perhaps, they are facing greater competition; that would be inevitable in any field of business or activity. Hence, we have no hesitation in rejecting the plea that mere change in the executive policy of the first respondent, for reasons of larger public convenience and national security is vitiated on account of the principle of promissory estoppel. The contention is therefore rejected.

2000 (3) KLT 88 = 2000 (2) KLJ 565 = ILR 2000 (3) Ker 491 DB Ajantha Travels v/s Government of India

Estoppel and Reservation Estoppel – On cancellation of a wrong SC/ST certificate, the person concerned is not entitled to plead estoppel merely on the ground of having enjoyed the status under such certificate for a long period.

It has to be noted that by getting the benefits, appellants have denied those to persons genuinely belonging to Scheduled Tribe. When a person belonging to Scheduled Tribe competes with others on merits and gets selected on merits, the posts reserved for Scheduled Tribe does not get exhausted. That is because the intention is to give benefit to one who is deficient and may not be able to compete on merits. Therefore, one cannot usurp the benefit meant for another, who is under-privileged. In State of T.N. & Ors. v/s. A. Guruswamy's case (1997 (3) SCC 342), (supra), it was held that principle of promissory estoppel is inapplicable. On cancellation of a wrong SC/ST certificate, the person concerned is not entitled to plead estoppel merely on the ground of having enjoyed the status under such a certificate for a long period. That would amount to protection of the fraud perpetrated and thereby defeat the Constitutional objective. In such cases, consequences have to follow. *In this judgment* **1997 (3) SCC 244** *is followed.*

2000 (2) KLT 811 = AIR 2000 Ker 262 DB Vijayalakshmi v/s Tahsildar

Estoppel The principle of estoppel applies to both civil and criminal proceedings – Evidence Act, 1872, S.115.

Litigation takes in civil as well as criminal litigation. Hence the principle of estoppel by election applies to both civil and criminal proceedings. In view of the fact that it is clear that the contentions raised and the reliefs claimed in the O.P. filed by the

2nd respondent before this Court and allegations made in the complaint and the reliefs sought in the complaint are entirely different and distinct and there is absolutely no election in between the two alternative and mutually exclusive remedies or two alternative courses of action, the principle of estoppel by election has no application to the facts of this case.

2000 (1) KLT 388 Kurien v/s Renjitha

Estoppel The doctrine of promissory estoppel need not be inhibited by the same limitation as estoppel in the strict sense of the term.

The true principle of promissory estoppel seems to be that where one party has by his words or conduct made to the other a clear and unequivocal promise which is intended to create legal relations or effects a legal relationship to raise in the future, knowing or intending that it would be acted upon by the other party to whom the promise is made and it is in fact so acted upon by the other party, the promise would be binding on the party making it and he would not be entitled to go back upon it, if it would not be inequitable to allow him to do so having regard to the dealings which have taken place between the parties, and this would be so irrespective of whether there is any pre-existing relationship between the parties or not. The doctrine of promissory estoppel need not be inhibited by the same limitation as estoppel in the strict sense of the term. It is an equitable principle evolved by the courts for doing justice and there is no reason why it should be given only a limited application by way of defence. *In this judgment* **AIR 1979 SC 621** *is relied on and* **1997 (7) SCC 251, 1995 (1) SCC 274** *and* **1995 (6) SCC 363** *are referred to.*

1999 (2) KLT 30 DB Hindustan Construction Co. Ltd v/s K.S.E.B.

Promisory Estoppel Principles of – Corporation incorporated by the Government giving an undertaking that Corporation will reimburse Sales Tax and additional Sales Tax on the element of excise duty to the company if it was assessed – Company acting on the undertaking and not collecting the Sales Tax and suffering loss- Corporation is estopped from withdrawing from the undertaking retrospectively. *In this judgment* **1947 KB 130 Ondan Property Trust Ltd v/s High Trees House Ltd, 1997 (7) SCC 251 Pawan Alloys and Casting Pvt Ltd v/s U.P State Electricity Board and others, 1979 (2) SCC 209 Motilal Adampat Sugar Mills Co. Ltd v/s State of U.P., 1997 (3) SCC 398 Shaijee Sales Corporation v/s Union of India, 1987 (1) SCR 654 Pournami Oil Mills v/s State of Kerala, 1992 (2) SCC 683 Pinechemicals Ltd v/s Assessing Authority, AIR 1967 SC 718 Union of India v/s Angloe Afghan Agencies, 1970 (1) SCC 582 Century Spinning and Manufacturing Co. Ltd v/s Ulhasnagar Municipal Council, 1977 (3) SCC 457 Radhakrishna Agarwal v/s State of Bihar** *and* **1985 (4) SCC 369 Union of India v/s Godfrey Philips India Ltd** *are relied on.*

ILR 1999 (1) Ker 359 = 1998 (2) KLT 1087 DB The Kerala State Beverages (Manufacturing & Marketing) Corporation v/s McDowel and Co. and others

Estoppel Speech made by Finance Minister in Parliament – Cannot be treated as a promise and principles of promissory estoppel does not apply.

Speech made in Parliament by the Finance Minister cannot be treated as a promise or representation made to the writ petitioner and the principle of promissory estoppel was wrongly applied by the High Court. No case of promissory estoppel has been made out on the facts of this case.

1999 (1) KLT SN 31 P 31 SC DB Union of India v/s Ganesh Rice Mills

Promissory Estoppel It is paramountly a principle of justice and of equity.

ILR 1997 (2) Ker 636 = 1997 (1) KLT 872 M/s Poornima v/s The Sales Tax Officer, Quilon and others

Estoppel Lessee who had accepted after expressly surrendering the earlier one is estopped from claiming the benefits on the basis of the earlier lease. *In this judgment* **1938 (59) CLR 641 Grundt v/s Bouler Proprietary Gold Mines Ltd** *and* **1976 KLT 448 Anandan Nadar v/s Ramachandra Menon** *are relied on.*

ILR 1997 (2) Ker 40 = 1997 (1) KLJ 1= 1997 (1) KLT 69 DB Sulaikha Beevi v/s K.C. Mathew and others

Estoppel Grant of stage carriage permits – Regional Transport Authority granting permits in pursuance of a Government notification- Grantees acquire right- The Government cannot later rescind the notification. *In this judgment* **AIR 1978 SC 1152 Attar Singh v/s RTA, Agra** *and* **AIR 1978 SC 209 Shariff Ahammed v/s RTA Meerut** *are relied on and* **AIR 1987 SC 1217 Commissioner of Income Tax U.P. v/s M/s Shah Sadique and Sons, AIR 1989 SC 1615 Bansidhar v/s State of Rajasthan, 1989 (1) KLT 141 State of Kerala v/s Madhavan Pillai, AIR 1983 SC 843 Gujarat State Financial Corporation v/s M/s Lotus Hotels Pvt Ltd, 1979 KLT 845 Indo- Marine Agencies v/s Sales Tax Officer Bombay, AIR 1986 SC 872 Express Newspapers Pvt Ltd v/s Union of India** *and* **1992 (2) KLT 48 Krishnan Nair v/s the Scrutiny Committee** *are referred to.*

ILR 1996 (1) Ker 144 DB Achankunju and another v/s State of Kerala and others

Words and Phrases 'Promisee alteing his position' meaning of - Doctrine of promissory estoppel cannot be put on a higher pedestal than a written contract - Evidence Act, 1872, S. 115.

1996 (1) KLT SN 22 P 17 SC State of Himachal Pradesh v/s Ganesh Wood Products

Estoppel Persons in illegal possession of property cannot take the plea of estoppel which would run counter to any statute.

ILR 1995 (3) Ker 107 DB Aliakutty Paul v/s State of Kerala and others

Estoppel Challenge against vires of the provision of an Act, cannot be repelled on the ground that the petitioners have voluntarily opted to be governed by the provisions of the Act. *In this judgment* **AIR 1986 SC 180 Olga Tellis and others**

v/s Bombay Muncipal Corporation and others *is referred to.*
ILR 1995 (2) Ker 431 = 1995 (1) KLT 644 FB Mary. Sonia Zacharia v/s Union of India and others

Estoppel Promise made by unauthorized person or authority - No estoppel arises out of such a promise - Principles of the doctorine and limitations of its application explained. *In this judgment* **1979 (2) SCC 409 Motilal Padampt Sugar Mills Co. v/s State of U.P and others** *and* **AIR 1991 SC 14 Vasant Kumar Radhakisan Vora v/s The Board of Trustees of the Port of Bombay** *are relied on,* **AIR 1987 SC 2414 Delhi Cloth and General Mills Ltd v/s Union of India, AIR 1983 SC 848 The Gujarat State Financial Corporation v/s M/s Lotus Hotels Pvt Ltd, 1977 QB 643 Laker Airways Ltd v/s Departments of Trade, 1951 AC 837 Howel v/s Falmouth Boat Construction Co. Ltd, 1953 AC 461 A.G. For Ceylcon v/s A.D. Silva** *and* **1981 (2) All ER 204 Western Fish Products Ltd v/s Penwith** *are referred to and* **1949 (1) KB 227 Robertson v/s Minister of Pensions** *is distinguished.*
ILR 1994 (2) Ker 139 Balakrishnan Nair v/s State of Kerala and others

Estoppel When two remedies are provided for Recovery of loan amount due by resorting to one remedy the parties are not estopped from resorting to the other- Principles of estoppel does not apply. *In this judgment* **AIR 1974 SC 2009 M. Chhagganlal v/s Greater Bombay Municipality, AIR 1982 SC 780 State of U.P. v/s Arshad Ali Khan, AIR 1982 SC 781 State of Gujarat v/s Dharmadas, AIR 1962 SC 199 Hiralal v/s Kali Nath, AIR 1970 SC 1475 V.D. Modi v/s R.A. Rehman, AIR 1977 SC 1201 Sundar Dass v/s Ram Prakash, AIR 1936 PC 258 Jagadish Chandra Deo v/s Gour Hari Mahato** *and* **AIR 1964 SC 907 Ittyavira Mathai v/s Varkey Varkey** *are relied on,* **6 CLJ 547 Rungama v/s Atchama 4 MIA 1 Baikuntha v/s Salimulla, AIR 1956 Mad 301 R. Samudra Vijayan Chettiar v/s Sreenivasa Alwar and others** *and* **ILR 1979 (2) Ker 25 = 1979 KLT 458 Raghavan Nair v/s Appu Kidavu** *are distinguished and* **1988 (2) KLT 722 Maniyan v/s Federal Bank Ltd** *is overruled.*
ILR 1990 (1) Ker 243 = 1989 (2) KLJ 18 = 1989 (2) KLT 74 DB Canara Bank v/s Thankappan

Estoppel by election Bank advancing money for agricultural purpose- Default in repayment- Bank filing suit and imitating steps for Recovery of the amount by Revenue Recovery proceedings- Amount due remitted on notice of R.R. Proceedings –Suit also decreed- Bank is precluded from executing the decree. *In this judgment* **4 MIA 1 Rungamma v/s Atchamma, 6 CLJ 547 Baikuntha v/s Salimulla, AIR 1956 Mad 301 R. Samudra Vijayan Chettiar v/s Srinivasa Alwar and others** *and* **ILR 1979 (2) Ker 25 Raghavan Nair v/s Appu Kidavu** *are referred to and* **165 (1987) ITR 56 I.T.O. v/s Manmohanlal** *is distinguished.*
ILR 1989 (1) Ker 568 = 1988 (2) KLJ 627 =1988 (2) KLT 722 Maniyan and others v/s The Federal Bank

Estoppel Principles of Petitioners establishing industries on the basis of Sales Tax concession notified by the Government- Later the Government amending the Act reducing the exemption substantially- Section 10 of the general Sales Tax Act empowered the State Government to issue notification both prospectively and retrospectively, and the notification in question had provided for retrospective operation from 1st April 1979. No rule of equity evolved by courts could have prevailed against the rules so legislatively ordained. *In this judgment* **1977 (2) All ER 182 Lakeer Airways v/s Department of Trade, 1983 KLT 1083 Govindan v/s Cochin Shipyard, 47 STC 135 K.L. Ahuja v/s State of MP, 1980 CLT 639 Modern Mills v/s Union of India, AIR 1980 SC 1285 Jit Ram v/s State of Haryana, 55 STC 162 Bombay Conductors and Electricals v/s Chandramouli, AIR 1971 SC 2399 Narander Chand v/s Union Territory, AIR 1962 SC 745 Mathra Prasad v/s State of Punjab, AIR 1983 SC 848 Gujarat State Financial Corporation v/s Lotus Hotels, 1969 KLT 641 I.T.O. v/s Ponnoose** *and* **ILR 1977 (1) Ker 502 Bakul Cashew v/s S.T.O.** *are relied on and* **AIR 1979 SC 621 M.P. Sugar Mills v/s State of U.P.** *is distinguished.*
ILR 1984 (2) Ker 537 = 1984 KLT 793 = 1984 KLN 394 DB M/s Wellworth Plastics and Chemicals, Quilon and others v/s State of Kerala and others

Estoppel No estoppel against a statute. *In this judgment* **ILR 34 All 398 Dharma Kunwar v/s Balwant Singh, AIR 1927 Mad 777 Parasuramayya v/s Venkataramayya** *and* **63 Law Weekly 952 Veera Raghava Reddi v/s Kamalamma** *are referred to.*
ILR 1983 (1) Ker 280 = 1982 KLJ 705 = 1983 KLT 160 DB Thathakutty v/s Kittamuthu and others

Estoppel Revenue Officials demanding and collecting basic Tax on land after 10th May 1971 does not estop the Government proceeding with the lands as if the same are vested lands.
ILR 1981 (1) Ker 1 FB State of Kerala and another v/s Malayalam Plantations Ltd

Estoppel The Law is clear that the surrender by the Government of its legislative powers to be used for public good cannot avail the company or operate against the Government as equitable estoppel. The plea of equitable estoppel, cannot operate against the provisions of the Act. *In this judgment* **ILR 1968 (2) Ker 664 Sankaranarayanan v/s The State of Kerala, 1970 KLT 838 Achuthan Pillai v/s State of Kerala, 1970 KLT 1008 Raman Pillai's Case** *and* **1971 KLT 318 Ernakulam Mill's Case** *are referred to.*
ILR 1972 (2) Ker 545 = 1972 KLJ 628 = 1972 KLT 628 = AIR 1973 Ker 36 FB The Govaliur Rayon Silk Mfg (Wrg) Co. Ltd v/s State of Kerala

Estoppel and Arbitration Principles of – Transfer of decree obtained on the basis of a mortgage without disclosing that the suit property was under attachment by court when the mortgage was executed – There is, therefore, no factual basis for the plea of estoppel. *In this judgment* **ILR 1980 (1) Kerala 609 State of Kerala v/s**

Chandran *is approved and* **AIR 1932 Bom. 386 Secretary of State v/s Tatyasheb** *is distinguished.*

ILR 1972 (1) Ker 570 Central Banking Corporation of Travancore Ltd (in liquidation) v/s Barnard Augustine and another

Estoppel tariffs Unilateral revision of tariffs by the Board contrary to agreements. The Board is not barred from revising tariffs. *In this judgment* **AIR 1968 SC 718 Union of India v/s Anglo Afgan Agencies, AIR 1971 SC 1021 Centruary Mill's Case, ILR 1968 (1) Ker 664 Sankara Narayanan v/s State of Kerala, 1971 KLT 422 SC Sankaranarayan v/s State of Kerala** *and* **1970 KLT 838 Achuthan Pollai and others v/s State of Kerala** *are relied on.*

ILR 1971 (2) Ker 366 = 1971 KLJ 775 = 1971 KLT 722 =AIR 1972 Ker 206 DB Indian Aluminum Company Ltd and others v/s Kerala State Electricity Board and others

Promissory Estoppel – Scope and Application of –Nature of the promise required to sustain a plea of promissory estoppel. *In this judgment* **AIR 1968 SC 718 Union of India v/s Anglo Afghan Agencies, 1947 KB 130 Central London Property Trust Ltd v/s High Trees House Ltd, 1856 (1) All ER 247 Lyte Millor v/s A. Lewis and Co., 1964 (3) All ER 556 Emmanuel Ayedeji Alayi v/s R.T. Briscoe Ltd, 1891 (3) Ch 82 Law v/s Boureries, AIR 1935 PC 79 Dawsons Bk v/s N.M.K.K., 1951 (2) KB 215 Combe** *and* **1950 (2) All ER 939 J.F. Perot and Co. v/s Cohen** *are followed and* **1877 (2) AC 439 Hughes v/s Metropolitan Rail Co., 1854 (5) HL Case 185 Jorden v/s Money, 1888 (4) Ch D 268 Birmingham and District Law Co. v/s London and North Western Rail Co., 1879 (5) QBD 188 Sin v/s Anglo American Telegraph Co., Ltd** *and* **1947 AC 46 Candian and Dominion Sugar Company Ltd v/s Canadian National (West Indies) Steamships** *are referred to.*

ILR 1971 (2) Ker 1 DB Ernakulam Mills Ltd v/s State of Kerala

Estoppel Representations when operate as estoppel – No estoppel in the matter of exercise of a discretionary statutory power for the public good. *In this judgment* **1926 AC 355 Amphitrite v/s Rex, 1892 (1) QB 43 R.V. Blerkinshop, 1962 (1) QB 416 Southend Corporation v/s Hodgsen, 1960 (2) QB 274 Commissioner of Grown Lands v/s Page, ILR 1968 (2) Ker 664 Sankaranarayanan v/s State of Kerala, AIR 1968 SC 718 Union of India v/s Anglo Afghan Agencies** *and* **1970 (1) SCWR 797 Century Spinning and Manufacturing Co. v/s Ulhasnaga Municipal Council** *are distinguished.*

ILR 1971 (1) Ker 74 = AIR 1972 Ker 39 FB Achuthan Pillai and Co. v/s State of Kerala and two others

Estoppel and retirement Press release by Government stating that the age of retirement of teachers will be raised to 60 from a specified date - Subsequent order after that date fixing retirement age at 55 - Plea that Government is estopped by Press release from changing date of retirement to 55 – Maintainability. *In this judgment* **1937 AC 610 Maritime**

Electric Co. v/s General Dearies Ltd, 1892 IQB 43 R.V. Bankinshop, 1962 (1) QB 416 Southend Corporation v/s Hodgson, 1964 AC 993 Kok Hoong v/s Leong Cheong Mixes *and* **1967 KLT 791 FB Srinivasan v/s State of Kerala** *are relied on.*
ILR 1968 (2) Ker 664 Sankaranarayanan v/s State of Kerala

GENERAL CLAUSES ACT

General Clauses Act, 1987 General Clauses Act, 1987 - An authority which has the right to make an assignment or grant has also the power to relax or modify any of the conditions of the assignment of grant.
ILR 1995 (2) Ker 705 = AIR 1995 Ker 209 = 1995 (1) KLJ 387 Parent Teacher Association, Maharaja's College and others v/s State of Kerala and others

General Clauses Act, 1987 General Clauses Act, 1987 - Section 6 - Whenever there is a repeal of a Central enactment Section 6 will be deemed to form part of the repealing Act unless a different intention appears. *In this judgment* **AIR 1961 SC 839 Chief Inspector of Mines v/s K.C. Thaper** *is relied on.*
ILR 1992 (3) Ker 213 = AIR 1992 Ker 383 Venketesh Naik v/s The Assistant Collector and others

General Clauses Act, 1987 and Kerala Co-operative Societies Act Under Section 110 (2), the continuance of the proceedings under the Kerala Act is directed only subject to the provisions of Sections 4 and 23 of the Interpretations and General Clauses Act (7 of 1125),(Section 110 (2) Kerala Co-operative Societies Act)
1979 KLT 152

PRECEDENTS

A Bench of lesser quorum doubts a Bench of larger Quorum Precedents - Procedure is to be followed when a Bench of lesser quorum doubts the correctness of the view taken by a Bench of larger Quorum. *In this judgment* **1983 (2) SCC 344, 2002 (7) SCC 273** *and* **1989 (2) SCC 754** *are referred to.*
2005 (1) KLT 486 SC FB Central Board D.B. Community v/s State of Maharashtra

Authority of a case A case is only an authority for what it actually decides and not for what may seem to follow logically from it.

Judges interpret words of statutes, their words are not to be interpreted as statutes. Observations of the Judges are not to be read as Euclid's theorems, not as provisions of the statute. There is always peril in treating the words of a speech of judgment, as though they are words in a legislative enactment and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case. A case is only an authority for what is actually decides and not for what may seem to follow logically from it. *In this judgment* **AIR 1983 SC 1246, AIR 1985 SC 218** *and* **1972 (2) WLR 587** *are referred to.*
2000 (1) KLT 120 = ILR 2000 (1) Ker 809 DB Balagopal v/s State of Kerala

Concession once made in the Court on a legal proposition It is open to the State or Union of India or even a private party to retrace or even resile from the concession once made in the Court on a legal proposition.

It is open to the State or Union of India or even a private party to retrace or even resile from a concession once made in the Court on a legal proposition. Firstly, because the party concerned, on a reconsideration of the proposition could comprehend a different construction as more appropriate. Secondly, the construction of statutory provision cannot rest entirely on the stand adopted by any party in the lis. Thirdly, the parties must be left free to aid the Court in reaching the correct construction to be placed on the statutory provision. *In this judgment* **AIR 1983 SC 239** *and* **JT 1999 (5) SC 410** *are relied on.*

1999 (3) KLT 574 = 1999 (2) KLJ 724 FB Gopalakrishnan Nair v/s State of Kerala

Act of Judicial Officers to be transparent Precedents – What is done by the Judicial Officers should be transparent – So long as the presiding officer is certain what he has written in his own judgment uninfluenced by any external consideration, it is his duty to deliver the judgment he has written even if it was leaked out.

In so long as the Presiding Officer is certain that what he has written his own judgment uninfluenced by any external consideration, even if it was leaked out it is his duty to deliver the judgment that was written. To verify whether the order was written as stated by the Munsiff the type written order as well as the dictation book were brought here. It was verified through the registery. It was found that what the learned Munsiff said was correct that he had dictated the judgment on the particular days and the finding in the order tallies with what is written in the dictation book. Hence no doubt that the learned Munsiff had actually dictated his order.

1999 (2) KLT 134 = 1999 (1) KLJ 36 Radhakrishnan Nair v/s Bhaskaran

Judicial discipline Precedents-Judicial discipline requires consistency in rendering judgments.

A Judicial Officer may err and pass contradictory orders inadvertenly. But once it is brought to the knowledge of the Judicial Officer, he is duty bound to keep track of consistency. Inconsistent orders passed by a judicial officer almost in the same fact situation, and that too on the same day, would give rise to complaint of discriminatory treatment, which will undermine the people's faith in judicial system and the rule of law. It will cause resentment and anguish and make an imprint in the mind of the litigant that he has been discrimined. A Judicial Officer may err and pass illegal orders, but he shall not err in consistency. He should be consistent even in illegality.

1998 (2) KLT 994 Joy v/s Regional Transport Authority

Prospective overruling Precedents-Power of prospective overruling is vested only with Supreme Court and that too in Constitutional matters-High Court has no power to declare that its decisin will have only prospective operation.

Since the decision in **Kerala Agro Industries Corporation case 1997 (2) KLT 310 = 1997 (1) KLJ 693** Proceeds on a basis contrary to what has been stated by the Supreme Court it cannot be considered to be an authoriy for the preposition that any transaction entered into prior to the rendering of the decision by the Full Bench in Kerala Fisheries Corporation case would not be governed by the law as declared by the Full Bench. The decision in Kerala Agro Industries Corporation case goes against the accepted principles of law and cannot therefore, be considered to be an authority for the proposition said to have been enunciated in that decision.*In this judgment* **1997 (2) KLT 310 The Kerala Agro-Industries Corporation Ltd v/s U.Gopalakrishnan Kunikullaya** *is held to be not good law and* **1996 (1) KLT 814 Kerala Fisheries Corporation v/s P.S. John** *is relied on and* **AIR 1967 SC 1643 Golakanth v/s State of Punjab** *and* **AIR 1990 SC 2023 Suresh Chandran verria v/s Chancellor, Nagpur University** *are referred to.*

1998 (2) KLT 130 = ILR 1998 (3) Ker 424 State Bank of India v/s Kuttappan

Decision by one or more Judges Precedents - Decision rendered by more Judges will prevail over decision rendered by lesser number of Judges.

1998 (1) KLT 951 FB United India Insurance Co. Ltd v/s Alvai

Judgments of Foreign Courts Precedents - Judgments of Foreign Courts regarding custody of children - Binding nature in Indian Courts - Welfare of child is of paramount consideration and order of foreign court is only a factor to be taken into consideration.

It is necessary to refer to the Hague Convention of 1980 on "Civil Aspects of International Child Abduction". As of today, about 45 countries are parties to this Convention. India is not yet a signatory. Under the Convention, any child below 16 years who had been 'a wrongfully' removed or retained in another contracting State, could be returned back to the country from which the child had been removed, by application to a central authority. Under Article 16 of the Convention, if in the process, the issue goes before a Court, the Convention prohibits the court from going into the merits of the welfare of the child. Article 12 requires the child to be sent back, but if a period of more than one year has lapsed from the date of removal to the date of commencement of the proceedings before the court, the child would still be returned unless it is demonstrated that the child is now settled in its new environment. Article 12 is subject to Article 13 and a return could be refused if it would expose the child to physical or psychological harm or otherwise place the child in an intolerable position or if the child is quite mature and objects to its return. In England, these aspects are covered by the Child Abduction and Custody Act, 1985. So far as non-Convention countries are concerned, or when the removal related to a period before adopting the Convention, the law is that the court is in the country to which the child is removed will consider the question on merits bearing the welfare of the child as of paramount importance and consider the order of the foreign court as only a factor to be taken into consideration.

1998 (1) KLT SN 37 P 41 = 1998 (1) SCC 112 DB Joshi v/s Madhav Unde

Interpretation of a provision Precedents - Long standing precedents - interpretation of a provision which would not disturb the unanimous understanding of High Courts should be preserved.

1998 (1) KLT SN 71 P 72 = 1998 (2) SCC 355 DB Nandakumar v/s J. Laxman

Prospective overruling Precedents - Power of prospective overruling is vested only with Supreme Court and that too in Constitutional matters - High Court has no power to declare that its decision will have only prospective operation.

The power of prospective overruling is vested only with the Supreme Court and that too only in Constitutional matters. It is therefore clear that the High Court has no authority or jurisdiction to declare that its decision will have only prospective operation. A Single Judge cannot later decide that the decision of the Full Bench earlier rendered will have only prospective operation and will not affect transaction that were entered into prior to the decision of the Full Bench. The observation can only be said to be per incuriam. *In this judgment* **273 NYS 582 People v/s Graves, AIR 1990 SC 2023 Suresh Chandra Verma v/s Chancellor Nagpur University** *and* **AIR 1967 SC 1643 Golak Nath v/s State of Punjab** *are relied on.*

1997 (2) KLT 931 = ILR 1998 (1) Ker 628 Kerala Agro-Industries Corporation Ltd v/s Amminukkutty Amma

Overruling a prior precedent Precedents-When a Full Bench overrules a prior precedent, its effect is as if it is a declaration of law as it always had been - Power of prospective overruling-It is vested only with the Supreme Court in constitutional matters.

When a precedent is over thrown, the overruling decision must be viewed as a enunciating the law as it always had been and that the discarded decision must be treated as nullity. A judicial decision is the evidence of the law. An overruling decision does not change law, it impeaches the overruled decision as evidence of law. Adopting the theory that courts merely declare pre-existing law, it logically follows that an overruling decision operates retro-actively'. The Supreme Court, when it for the first time adopted the principle of prospective overruling earlier recognised by the Supreme Court of United States, had specifically set down the limitations of that doctrine. Their Lordships have clearly held that the power of prospective overruling is vested only with the Supreme Court and that too only in constitutional matters. It is therefore clear that the High Court has no authority or jurisdiction to declare that its decision will have only prospective operation. *In this judgment* **273 NY 582 People v/s Graves** *and* **AIR 1967 SC 1643 Golak Nath v/s State of Punjab** *are referred to and* **AIR 1990 SC 2023 Suresh Chandran Verma v/s Chancellor, Nagpur Varsity** *are relied on.*

1997 (2) KLJ 778 Kerala Agro-Industries Corporation Ltd v/s Amminikutty Amma and others

Opinions expressed by larger benches Precedents - When different Benches of Supreme Court have expressed differing opinion on a point, the opinions

expressed by larger benches have to be followed. *In this judgment* **AIR 1976 SC 2433 Union of India v/s K.S. Subramanian** *is relied on.*

1997 (2) KLT 503 FB = 1997 (2) KLJ 213 = ILR 1997 (3) Ker 659 Satyabhama v/s Ramachandran

Judicial propriety and decorum Precedents-Considerations of judicial propriety and decorum require that if a Single Judge hearing a matter is inclined to take the view that the earlier decisions of the court whether of a Division Bench or of a Single Judge, need to be reconsidered, he should not embark upon that enquiry sitting as a Single Judge, but should refer the matter to a Division Bench.

This is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety. The subordinate courts would final themselves in an embarrassing position to choose between the conflicting opinions and the general public would be in dilemma to obey or not to obey such law and it ultimately falls into disrepute. *In this judgment* **AIR 1965 SC 1767 Shri Bhagwan v/s Ram Chand, AIR 1972 SC 51 V.R.G. & G. O.M.C. Co. v/s State of A.P., AIR 1975 SC 907 Mamleshwar v/s Kanahaiya Lala, AIR 1989 SC 1933 Union of India v/s Raghubir Singh, AIR 1990 SC 307 Srider v/s Nagar Palika, Jaunpur, AIR 1991 SC 1893 Sundarjas Kanyala Bhathija v/s Collector, Thane** *and* **1993 (3) SCC 11 Hari Singh v/s State of Haryana** *are relied on.*

1995 (1) KLT 748 Muhammed Sajeed v/s State of Kerala

Reference to a Division Bench Precedents-When a single Judge differs from the decision of another single Judge the matter should be referred to a Division Bench.

If two single Judges decided differently on the same question of law its effect would be to infuse confusion. If a single Judge disagrees with the decision of another single Judge it is proper to refer the matter to a larger Bench for an authoritative decision. *In this judgment* **AIR 1990 SC 307 Shridhar v/s Nagar Palika, AIR 1965 SC 1767 Shri Bhagwan v/s Ram Chand, 1993 (3) SCC 114 Hari Singh v/s State of Haryana,** *and* **1993 (3) SCC 288 State of West Bengal v/s Falgni Dutta** *are relied on.*

1995 (1) KLT 126 = 1995 (1) KLJ 96 = ILR 1995 (1) Ker 743 DB Raveendran v/s R.T.O. Kannur

Judgement per incuriam Precedents - Judgement per incuriam - Decision of Division Bench disagreed by later single bench - Proper course should be to refer the matter to a larger bench. Held that the later decision is per incuriam.

Per incuriam is the legal language for inadvertent mistake of ignorance of a statutory provision of a relevant authority. For certainty of the law, a decision once rendered must bind similar cases later. It is also in the interest of public that a finality should attach to the Binding decisions pronounced by courts of competent jurisdiction.

1995 (1) KLJ 704

Public expression of lack of faith in the subordinate judges Precedents - Administration of justice - judges of higher courts must exercise judicial restraint when tempted to employ strong terms against lower judiciary - Restraint to be observed.

No greater damage can be caused to the administration of justice and to the confidence of people in judicial institutions when judges of higher courts publicly express lack of faith in the subordinate judges. It has been said, time and again, that respect for judiciary is not in hands by using intemperate language and by casting aspersions against lower judiciary. It is well to remember that a judicial officer against whom aspersions are made in the judgment could not appear before the higher court to defend his order Judges of higher courts must, therefore, exercise greater judicial restraint and adopt greater care when they are tempted to employ strong terms against lower judiciary.

1997 (1) KLT SN 80 P 60 = JT 1997 (3) SC 26 DB Braj Kishore v/s Union of India

Idiot Precedents - The word 'idiot' is used for referring to a person who suffered from service feeblemindedness or a blockhead.

While witting judgment care shall be taken not to use any harsh expression which may have some adverse counsel the judge should avoid unnecessary expression and sarcastic remarks. While writing judgment the judge should express his opinion in temperate language, usually associated with and reflecting the impersonal dignity of judicial restrain.

1994 (1) KLT 969 = 1994 (1) KLJ 898 Sukumaran Potti v/s Munsiff

Comity of Courts Precedents-Principle of "Comity of Courts'-Forbearance which courts of co-ordinate jurisdiction administered under a single system exercise to wards each other, whereby conflicts or interference with the process of each other is avoided is called the principle of 'comity' - It is a principle of practice, expedience and convenience. 'Comity' persuades; but it does not command. It declares, not how a case shall be decided, but how it may with propriety be decided. The rule may be changed by legislation or by the need to conform to the law of the State if it is opposed to public policy..

1994 (1) KLT 834 Abdul Kareem v/s Commissioner & Secretary to Government

An illegality once committed An illegality once committed should not continue to be committed in future to satisfy nondiscriminatory treatment under Article 14

The fact that the departmental officers have not correctly understood , or are ignorant of, the provisions of the Act, is not an excuse for justifying an illegality. One illegality or mistake does not justify the perpetration of another similar illegality or mistake or its perpetuation. There is no constitutional guarantee for that under Article 14.

ILR 1990 (3) Ker 1064 = 1990 (1) KLT 530 = 1990 (1) KLJ 477 Janardhanan v/s joint Registrar

Complying with the procedure Officers duty when administering power under a statute - While passing the impugned order an irregularity has been committed

by the Deputy Registrar in not properly complying with the requirements of the section. Such remission on the part of any official certainly not to be commended. Even if a statutory provisions is not mandatory character, it is expected that the officers who are charged with the responsibility of administering the powers under the statute would duly comply with the procedure laid down while exercising such powers.

1971 KLJ 349 = 1971 KLT 753 M.V. Hydrose v/s Deputy Registrar

INTERPRETATION OF STATUTES

Duty of Court Interpretation of statutes - Court should read the statutory provision as it is and cannot rewrite it to suit its convenience. *In this judgment* **AIR 1977 SC 2328, AIR 1972 SC 2284, AIR 1992 SC 96, 2003 (5) SCC 134** *and* **2003 (2) SCC 576** *are referred to.*

2005 (3) KLT 369 DB Madhava v/s Pathumabi

Meaning of words of a statute Interpretation of statutes - When the words of a statute are clear, plain or unambiguous ie., they are reasonably susceptible to only one meaning, the Courts are bound to give effect to that meaning irrespective of consequences. *In this judgment* **2003 (5) SCC 134, 1846 (6) Moore PC 1, AIR 1891 SC 772, JT 1998 (2) SC 253, AIR 1980 SC 1187, 1965 (2) All ER 441, 1980 (1) All ER 529, AIR 1990 SC 1747, AIR 1966 SC 1678** *and* **1984 (2) SCC 500** *are referred to.*

2005 (1) KLT 34 SC DB State of Jharkhand v/s Govind Singh

Enacting a law Article 14 of Constitution -Interpretation of Statutes - Legislative power of the Legislature - It is permissive for the legislature to enact a law which will withdraw or fundamentally alter the very basis on which a judicial pronouncement has proceeded and create a situation which if it had existed earlier the court would not have made the pronouncement.

2003 (1) KLT SN 98 = AIR 2003 SC 1266 = JT 2003 (2) SC 335 DB Welfare Association A.R.P. Maharashtra v/s Ranjith P. Gohil

Words and expressions Constitution of India -- Interpretation of the Constitution - Words and expressions used in, held (per Dharmadhikari, J.), have no fixed meaning and must receive interpretation based on the experience of the people in the course of working of the Constitution.

AIR 2002 SC 3176 = 2002 (7) SCC 368 FB Aruna Roy v/s Union of India

Juristic person Jurisprudence – Concept of juristic person – Arose out of necessities in human development – Recognition of an entry as juristic person is for subserving the needs and faith of society.

The very words "Juristic Person" connote recognition of an entity to be in law a person which otherwise it is not. In other words, it is not an individual natural person but an artificially created person which is to be recognised to be in law as such, For a bigger thrust of socio-political-scientific development evolution of a fictional personality

to be a juristic person became inevitable. This may be any entity, living, inanimate, objects or things. It may be a religious institution or any such useful unit which may impel the Courts to recognise it. This recognition is for subserving the needs and faith of the society. A juristic person, like any other natural person is in law also conferred with rights and obligations and is dealt with in accordance with law. In other words, the entity acts like a natural person but only through a designated person, whose acts are processed within the ambit of law.

2000 (2) KLT SN 90 P83 SC DB Shiromani Gurudwara Prabandhak Committee v/s Shri Som Nath Dass

Normal function of a proviso Interpretation of Statutes – Normal function of a proviso is to except something out of the enactment or to qualify something enacted therein which but for the proviso would be within the purview of the enactment.

When on a fair construction the principle provision is clear, a proviso cannot expand or limit it. Where the language of the main enactment is clear and unambiguous, a proviso can have no repercussion on the interpretation of the main enactment so as to exclude from it by implication what clearly falls within its express terms. *In this judgment* **1880 (5) QBD 170, AIR 1944 PC 71, AIR 1989 SC 1737, 1975 SC 1758** *and* **AIR 1944 PC 71** *are referred to.*

2000 (1) KLT 311 = ILR 2000 (1) Ker 823 DB Madhavan v/s Excise Inspector

Mandatory and directory enactment Interpretation of Statutes – Difference between mandatory and directory enactment – Effect of non-compliance.

It has been suggested that directory requirements fall under two heads: (1) Those which should be substantially complied with to make the act valid; (2) those which even if not at all complied with have no effect on the act. The correct position appears to be that substantial compliance of an enactment is insisted, where mandatory and directory requirements are lumped together, for in such a case, if mandatory requirements are complied with, it will be proper to say that the enactment has been substantially complied with notwithstanding the non-compliance of directory requirements.

2000 (1) KLT 311 DB Madhavan v/s Excise Inspector

Retrospective operation Interpretation of Statutes – Provisions which touch a right in existence at the passing of statute are not to be applied retrospectively in the absence of express enactment or necessary intendment.

As a logical corollary of general rule, that retrospective operation is not taken to be intended unless that intention is manifested by express words or necessary implication, there is a subordinate rule to the effect that a statute or a section in it is not to be construed so as to have larger retrospective operation than its language renders necessary. Close attention must be paid to language of the statutory provision for determining scope of retrospectivity intended by legislature. In contrast to statutes dealing with substantive rights, statutes dealing with merely matters of procedure are presumed to be retrospective unless such a construction is textually inadmissible. *In*

this judgment **1996 (1) All ER 524 HL, AIR 1990 SC 209, 1894 (1) QB 725, AIR 1984 SC 1, AIR 1989 SC 1247** *and* **AIR 1990 SC 1849** *are followed.*

2000 (1) KLT 175 DB Travancore Rayons Ltd v/s Kerala State Pollution Control Board

Interpreting a provision Interpretation of Statutes – A Court can merely interpret a provision – Cannot re-write, recast or redesign the provision.

In interpreting the provision, the exercise undertaken by the Court is to make explicit the intention of the legislature which enacted the legislation. It is not for the Court to re-frame the legislation for the very good reason that the powers to 'legislate' have to been conferred on the Court.

2000 (1) KLT 70 = 1999 (2) KLJ 927 DB State of Kerala v/s Sahadevan

Deemed - meaning of The term 'deemed' is mostly use to extend the denotation of the defined term to things it would not in ordinary parlance denote and is often a convenient device for reducing the verbiage of an enactment, but that does not mean that wherever it is used, it has that effect; to deem means, simply to judge or reach a conclusion about something, and the words 'deem' and 'deemed' when used in a statute thus simply state the effect or meaning which some matter of thing has the way in which it is to be adjudged; this need not import artificiality or fiction; it may simply be the statement of an undisputable conclusion. When a thing is to be 'deemed' something else, it is to be treated as that something else with the attendant consequences, but it not that something else. *In this judgment* **AIR 1988 SC 587** *and* **1951 (2) All ER 587 HL** *are referred to.*

2000 (1) KLT 33 = ILR 2000 (2) Ker 65 DB Public Service Commission v/s Govindan

Role of proviso Interpretation of Statutes – Proviso is in the nature of an exception to the stipulation in the main provision – Role of proviso in a statute.

The proper function of a proviso is that it qualifies the generality of the main enactment by providing an exception and taking out as it were, from the main enactment, a portion which, but for the proviso would fall within the main enactment. Ordinarily it is foreign to the proper function of proviso to read it as something by way of an addendum or dealing with a subject which is foreign to the main enactment. When one finds a proviso to a provision, the normal presumption is that, but for the proviso, the enacting part of the provision would have included the subject matter of the proviso. *In this judgment* **1909 AC 57 HL, 1880 Vol V QBD 170, AIR 1961 SC 1596, AIR 1959 SC 713** *and* **AIR 1965 SC 1728** *are referred to.*

1999 (3) KLT 781 Jallaluddin v/s Kerala Agricultural University

Definition of an expression Interpretation of Statutes – An interpretation in one statute cannot be construed in such expression in another state – Definition of an expression in a particular statute cannot be used to find out the meaning of the same expression in another statute.

It is not a sound principle of construction to interpret expressions used in one statute with reference to their use in another statute. And decisions rendered with

reference to construction of one statute cannot apply with reference to the provisions of another statute, unless the two statutes are in pari materia.

1999 (2) KLJ 1107 DB Prasanna Kumari v/s Shobana Kumari and others

Interpretation of the word 'only' Interpretation of Statutes – Monosyllable "only" – How to interpret – Principle to be followed.

It is not a sound principle in interpretation of statutes to lay emphasis on one word disjuncted from its preceding and succeeding words. A word in a statutory provision is to be read in collocation with its companion words. The pristine principle based on the maxim "noscittur a sociis (meaning of a word should be known from its accompanying or associating words) has much relevance in understanding the import of words in a statutory provision. *In this judgment* **JT 1990 (3) SC 343, JT 1988 (3) SC 684, 1997 (1) SCC 155** *and* **AIR 1915 All 459** *are referred to.*

1999 (2) KLT 195 SC DB K. Bhagirathi G. Shenoy v/s K.P. Ballakuraya

Dictionary meaning Interpretation of Statutes – Meaning of word not defined in Statute – Adoption of Dictionary meaning – Not safe when dictionary gives more than one meaning – Word to be construed in context of provisions of Statute.

It is settled principle of interpretation that the meaning of the words, occurring in the provision of the Act must take their colour from the context in which they are so used. In other words, for arriving at the true meaning of a word, the said word should not be detached from the context. Thus, when the word read in the context conveys a meaning, that meaning would be the appropriate meaning of that word and in that case the dictionary meaning of that word cannot be relied upon.

1999 (2) KLT SN 80 P 73 SC FB Commissioner of Income Tax v/s Venkateswara Hatcheries (P) Ltd

Repeal and re-enactment of a provision Interpretation of Statutes – Repeal of a provision and simultaneous re-enactment of similar provision – Effect – Re-enacted provision regarded to have force continuously – General Clauses Act, 1897, S.6.

Where a provision of an Act is omitted by an Act and the said Act simultaneously re-enacts a new provision which substantially covers the field occupied by the repealed provision with certain modification, in that event such re-enactment is regarded as having force continuously and the modification, or changes are treated as amendment coming into force with effect from the date of enforcement of re-enacted provision. *In this judgmenmt* **1988 Tax LR 1666 AP** *is overruled.*

1999 (2) KLT SN 80 P 73 SC FB Commissioner of Income Tax v/s Venkateswara Hatcheries (P) Ltd

Question of construction Interpretation of Statues – Where the words of a statute are clear and unambiguous, there can arise no question of construction.

A court should give effect to plain words, not because there is any charm or magic in the plainness of such words but because plain words may be expected to convey plainly the intention of the Legislature. *In this judgment* **AIR 1984 SC 786,**

1972 SC 1487 *and* **1982 SC 1230** *are referred to.*

1999 (1) KLT 208 Thomas v/s David

Authoritative text Article 348 (3) - Translated text of English language published in the Gazette shall be deemed to be the authoritative text. *In this judgment* **1955 (2) KLT 663 Thanga Dorai v/s Chancellor, Kerala University** *is referred to.*

1999 (1) KLT 208 Thomas v/s David

Right and duty The rule that every "right" has a co-relative "duty" and every "duty" has a co-relative "right" not an absolute rule.

The elements of a "LEGAL RIGHT" are that the "right" is vested in a person and is available against a person who is under a corresponding obligation and duty to respect that the right and has to act or forbear from acting in a manner so as to prevent the violation of the right. If, therefore, there is a legal right vested in a person, the latter can seek its protection against a person who is bound by a corresponding duty not to violate that right.

1999 (1) KLT SN 14 P 13 SC DB Tokugha Yepthomi v/s Apollo Hospital Enterprises Ltd

Ordinary meaning Interpretation of Statutes - The golden rule is that the words of a statute must be given their ordinary meaning - Court cannot rewrite, recast or redesign the Section.

1998 (2) KLJ 620 DB State of Kerala v/s Abdulla Kunhi

Repeal of an Ordinance Interpretation of Statutes & General Clauses Act, 1897 - An Ordinance could repeal another Ordinance and in such a situation it could not be said that the Governor is without any power to save the proceedings continued under the earlier Ordinance-See-Constitution of India. Art. 213 - Abkari Act, 1077, (Kerala).

1998 (1) KLT 330 = ILR 1998 (2) Ker 329 Asokan v/s State of Kerala

Imagined meaning to the legislation Interpretation of Statutes - Legislation not capable of two interpretations - Courts will not add or subtract, import or attribute imagined meaning to the legislation.

It is axiomatic that court is expected to enforce what the law is, not what is should be. The court in the ordinary course for no philosophical reasons or other perception or for its own reasons irrespective of the consequences of legislations, would not give meaning to plain meaning of legislation, when legislation is not capable of two interpretations. Courts would restrain itself from importing or attributing imagined meaning to legislation against the plain meaning in it carries and then add and subtract from legislation by adhering interpretative law.

1998 (1) KLT SN 48 P 52 = 1998 (1) MLJ 410 DB Sivathanu v/s Bar Council of Tamil Nadu

Social security legislations Interpretation of Statutes - Social security legislations - Purposive approach to be adopted. Fundamental rule of interpretation to

which all are subordinate is that the statute to be expounded according to the intent of them that makes it.

The Employees State Insurance Act, 1948 is an Act intended to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto. It is a piece of social security enactment. The predominant question before this Court in this context is as to how the provisions contained in the enactments intended as social security measure to be interpreted. The 'literal approach' as has been called for traditional method of interpretation has now modified by 'purposive approach'. Social justice is an objective which is embodied and enshrined in our Constitution.

ILR 1997 (2) Ker 771 = 1997 (1) KLJ 657 E.S.I. Corporation v/s Kerala Wheat flour Roller Mill

Overruling judgment of a Court Interpretation of Statutes - Legislature cannot overrule judgment of Court, but has power to suitably amend the law removing the defects - such exercise is not incursion in judicial power of Court and is statutory exercise of Constitutional power.

When this Court in exercise of power of judicial review, has declared a particular statute to be invalid, the Legislature has no power to overrule the judgment; however, it has the power to suitably amend the law by use of appropriate phraseology removing the defects pointed out by the Court and by amending the law inconsistent with the law declared by the Court so that the defects which were pointed out were never on statute for effective enforcement of the law. Such an exercise of power to amend a statute is not an incursion on the judicial power of the Court but is a statutory exercise of the constituent power to suitably amend the law and to validate the actions which have been declared to be invalid.

1997 (1) KLT SN 11 P 9 = JT 1996 (9) SC 382 FB Meerut Development Authority v/s Satbir Singh

Constitutionality of the provisions Interpretation of Statutes - The presumption of the constitutionality of the provisions of a legislative enactment will stand rebutted if the scrutiny of its provisions establishes violation of any of the fundamental rights.

ILR 1996 (3) Ker 1 DB Issac Ninan v/s State of Kerala

Negativing the jurisdiction of Civil Courts Interpretation of Statutes - Interpretation giving effect of negativing the jurisdiction of Civil Courts or deprive partied of an ordinary remedy should be avoided. *In this judgment* **1951 (1) All ER 49 Attorney General v/s Prince Augustus of Hanover, 1977 Imperial Court Report 662 Davis and Sns Alkins, AIR 1967 SC 1581Northern India Cateress Ltd v/s State of Punjab, AIR 1968 Cal 560 FB Rajendra Parasad Singh v/s Union, AIR 1968 All 369 FB Raja Rama Varma v/s State, AIR 1972 All 97 M/s P.P. Industries Chimar v/s District Magistrate Mirazapur, 1984 (2) SCC 183**

R.S. Nayak v/s A.R. Antulay, 1978 KLT 443 Thankappan Asari v/s Ammukutty Bai, 1976 KLT 427 Kesavan Namboodiri v/s State of Kerala, AIR 1955 SC 830 Tirath Singh v/s Bachittar Singh *and* **AIR 1967 SC 276 State of MP v/s Azad Bharat Finance Co.** *are relied on.*

ILR 1990 (1) Ker 447 DB Yohannan v/s Kumaran

Interest of the legislature Interpretation of Statutes - Courts must give effect to the interest of the legislature expressed in clear language. *In this judgment* **AIR 1980 SC 1896 Gujarat Steel Tubes v/s Its Mazdoor Sabha, 1987 (1) SCC 191 S.P. Jain v/s Krishna Mohan Gupta and others, 1988 (2) SCC 474 Mohan Lal v/s Jaibhagwan, AIR 1957 SC 857 Mobarak Ali v/s State of Bombay, 1984 (2) SCC 183 R.S. Nayak v/s A.R. Antulay** *and* **Shaw v/s DPP 1962 AC 220** *are relied on and* **1970 KLT 605 Narayanan v/s State of Kerala** *and* **AIR 1981 SC 559 Rafia v/s State of Bihar** *are distinguished.*

ILR 1989 (1) Ker 712 Ravi v/s S.I. of Police

Subordinate legislative instructment Interpretation of Statutes - Rules and Byes Laws- Presumption of constitutionality competence and reasonableness of subordinate legislative instructment is just as legislative enactments – Presumption that power was properly exercised - power shall not be equated with administrative actions. A rule or a regulation is as such law as an ordinance or enactment is, in view of the provisions contained in Article 13 (3) of the Constitution of India. *In this judgment* **AIR 1978 SC 803 Madam Mohan Pathak v/s LIC and others, 1893 (2) QB 91 Kruse v/s Johnson, 1961 SC 751 State of U.P. v/s Babu Ramair, AIR 1961 SC 1170 J.K. Cotton Spg. Wing Mills Ltd v/s State of U.P., AIR 1952 Bom 296 Mulchand v/s Mukund, AIR 1981 SC 1127 RK. Porwal v/s State of Maharashtra, AIR 1984 AP 75 DKV Rao and others v/s Government of AP, AIR 1980 SC 822 Tulsipur Sugar Company v/s Notified Area Committee, AIR 1981 SC 1127 R.K. Porwal v/s State of Maharasthra, 1972 (1) WLR 1373 Bates v/s Lord Hailsham, AIR 1973 SC 537 PCS Mills v/s Union of India, AIR 1974 SC 366 Sree Meenakshi Mills Ltd v/s Union of India, AIR 1975 SC 460 SI Synidcate v/s Union of India, AIR 1974 SC 555 E.P. Royappa v/s State of Tamilnadu, AIR 1975 SC 597 Maneka Gandhi v/s Union of India, AIR 1981 SC 481 Ajay Hasia etc v/s Khalid Miyib Sharavardi, AIR 1983 SC 130 D.S. Nakara v/s Union of India, AIR 1952 SC 16 Commissioner of Police v/s Gordhanadas** *and* **144 ITR 225 CIT v/s Mahindra and Mahindra Ltd** *are referred to.*

ILR 1985 (2) Ker 412 = AIR 1986 Ker 86 FB P.V. Mani and others v/s The Union of India and others

Equitable construction Interpretation of Statutes - Equitable construction cannot be put upon the words of a taxing statute. *In this judgment* **1869 LR 4 HL 100 Partingtion v/s Attorney General, VIR 1921 (1) QB 64 Capre Brandy**

Syndicate, 55 ITR 741 CIT v/s Ajax Products Ltd *and* **60 ITR 392 Commissioner of Income Tax v/s Shahzada Nand** *are relied on.*

ILR 1983 (1) Ker 533 = 1983 KLT 304 DB The Commissioner of Income Tax Kerala v/s Malayala Manorama Co. Ltd, Kottayam

Inclusive definition and definition by exclusion Interpretation of Statutes - "Inclusive definition" and "definition by exclusion"- The definition of Cotton Fabrics in Item 19 in the 1st Schedule to the Central Sales Tax Act is not an 'inclusive definition' but a 'definition by exclusion' that is to say one which excludes those fabrics enumerated under the caption "but does not include any such fabrics if it contains" under the substantial definition in item19, 'Cotton fabrics means all varieties of fabrics manufactured either wholly or partly from cotton'. However, to attract the definition in item 19 it is necessary that the woven material shall not lose its identity as a woven material. *In this judgment* **1976 KLT 78 FB Krishnan Nair v/s Sivaraman Nambudiri** *is relied on.*

ILR 1982 (1) Ker 193 DB M/s Radha's Fancy Piece Goods Merchants v/s State of Kerala

Grammatical construction Interpretation of Statutes - Too much emphasis on strict grammatical construction may lead to amomalous results- should be read in such a way as to harmonise the object of the legislature. *In this judgment* **AIR 1958 SC 414 State of U.P. v/s C. Tobit, 1900 (1) QB 156 Attorney General v/s Clarkson** *and* **1921 (2) KB 403 Cape Brandy Syndicate v/s Inland Revenue Commissioner** *are relied on.*

ILR 1981 (2) Ker 261 FB Commissioner of Income Tax Kerala v/s M/s Forbes Ewart and Figgis (P) Ltd and others

Punctuation mark Interpretation of Statutes - Not safe to rely on punctuation mark as deciding factor.

ILR 1981 (1) Ker 467 DB M.G. Menon v/s The Deputy Labour Commissioner

Intention of the legislature Interpretation of Statutes - If adherence to the words in an enactment produces absurdity the court has to find out the intention of the legislature.

ILR 1981 (1) Ker 643 = 1981 KLN 41 = 1981 KLT SN 31 Madhavan Ezhuthasan v/s Vellayyappan

Interpreting an expression Interpretation of Statutes - Expressions used in one Act cannot be construed in interpreting the same expression in another Act. *In this judgment* **1955 AC 337 London Corporation v/s Cusack Smith, 1864 (2) H & C HLAttorney General Sillem** *and* **AIR 1962 Pun 94 C. W. Co-operative Transport Society v/s Punjab State** *are relied on.*

ILR 1981 (1) Ker 1 = 1980 KLT 976 = AIR 1981 Ker 1 FB State of Kerala v/s Malayalam Plantations Ltd

Proviso to allay the fears Interpretation of Statutes - Proviso - The proviso is sometimes made use of for such a purpose to allay the fears. This should not be

understood as taking a particular claim out of the general provision in an enactment. *In this judgment* **1976 KLT 591 Abdukutty v/s Abdul Mani** *and* **1979 KLT 73 Kunhamina v/s Ammoty Mariam** *are approved,* **ILR 27 Cal 951 Girish Chemder Laheri v/s Shoshi Shikhareswar Roy, ILR 23 Cal 884 Kanio Behary Singh v/s Madhub Chundra Ghose, ILR 34 Mad 502 Ramasami Reddi v/s Authi Lakshmi Ammal, AIR 1979 Pat 530 Balgovind v/s Dwaraka Prasad, 1921) 621 C 25 Tilakdhari Singh v/s Ram Prasad Singh** *and* **AIR 1939 Nag 23 Ramanath v/s Mohanlal** *are referred to and* **1897 AC 647 West Derby Union v/s Metropolitan Life Assurance Society** *and* **AIR 1962 SC 1543 Madanlal v/s S. Changdio Sugar Mills Ltd** *are relied on.*

ILR 1980 (2) Ker 719 DB Prabhakaran Pillai v/s Parvathi Amma Subhashani Amma

Words used in a statute Interpretation of Statutes - Words used in one statute cannot be used in construction of the same words in another statute. *In this judgment* **1893 (3) Ch 252 In Re Lord Gerard's Settled Estate, 1850 (15) Appeal Cases 334 Inland Revenue Commissioner's v/s Forest, 1955 AC 337 London Corporation v/s Cusacksmith** *and* **1966 KLT 975 State of Kerala v/s Gopalan Nair** *are relied on.*

ILR 1979 (2) Ker 525 = AIR 1980 Ker 187 = 1979 KLT 829 FB State of Kerala v/s M/s Amalgamated Malabar Estates (P) Ltd and another

Punctuation mark Interpretation of Statutes - Punctuation marks in the statute should not be allowed to control the plain meaning of the text when legislative intent is clear. *In this judgment* **AIR 1950 SC 27 A.K. Gopalan v/s State of Madras** *is relied on.*

ILR 1978 (1) Ker 223 DB M.G. Kollankulam v/s The C.I.T and Wealth Tax Kerala

Statutes of Limitation Interpretation of Statutes - Priniciples to be followed in construing statutes of Limitation - Wherever two interpretation are possible that which gives the larger period of limitation to be preferred.

ILR 1977 (1) Ker 713 = 1977 KLT 50 Kohkkat Biyyata Attabi v/s Muthukoya and others

Explanation and Proviso Interpretation of Statutes - "Explanation" and 'Proviso' – Interepretation of.

ILR 1976 (1) Ker 203 DB Cochin Company v/s C.I.T. Kerala

Pemature repeal of Ordinance Interpretation of Statutes - Pemature repeal of ordinance by the Act- How far rights and liabilities accrued by the repealed enactment survive. *In this judgment* **151 ER 1024 Steavenson Voliver, AIR 1962 SC 945 The State of Orissa v/s Bhupendra Kumar Bose, AIR 1955 SC 84 State of Punjab v/s Mohan Singh, AIR 1956 SC 771 Indira Sohanlal v/s Custodian of Evacuce Property** *and* **AIR 1974 SC 396 Qudrat Ullah v/s Bareilly Municipality** *are relied on and* **AIR 1971 SC 1193 Jayantlal V. Amratlal v/s The Union of India** *and* **63**

ITR 310 C.I.T. Bombay City v/s Godavari Sugar Mills Ltd *are referred to.*
ILR 1976 (2) Ker 32 = 1976 KLT 164 C.I.T. Kerala v/s M/s Kerala Nut Food Co. Quilon

Object of the statute Interpretation of Statutes - Object of the statute to be given effect to. *In this judgment* **1881 (6) QBD 664 Lyons v/s Tucker, 1953 (1) WLR 649 Barnes v/s Jarvis** *and* **AIR 1961 SC 307 State of Bombay v/s Vishnu Ramachandra** *are relied on.*
ILR 1975 (1) Ker 609 Thania and another v/s D.E.O., Ernakulam and others

Conflicting provisions Interpretation of Statutes - Principles of – Conflicting provisions to be interpreted harmonously as far as possible.
ILR 1974 (2) Ker 274 Mary v/s The Regional Director of Public Instruction and others

Repeal of the earlier rules Interpretation of Statutes - Rules incorporated by another Act- Repeal of the first rules- Second Act will not be affected. *In this judgment* **AIR 1963 SC 553 Ram Sarup and others v/s Munshi and others** *is relied on.*
ILR 1974 (1) Ker 486 DB Dr. Raman Nair v/s University of Cochin and others

Rule of interpretation Interpretation of Statutes - Words and Phrases- Rule of interpretation. *In this judgment* **1954 (5) STC 348 Varkey v/s A.I.T. and Rural Sale Tax Officer, 1967 (19) STC 469 Commissioner of Sales Tax v/s Jaswant Singh Charan Singh, 12 STC 286 Ramavatar Budhaprasad v/s The Assistant Sales Tax Officer, Akola** *and* **1951 CLR Ex 122 His Majesty The King v/s Planters Nitt Chocolate Company Ltd** *are relied on.*
ILR 1973 (1) Ker 449 DB The Commissioner of Income Tax Kerala v/s The Casino (Private) Ltd, Trichur

Words of wide meaning Interpretation of Statutes - Words of wide meaning - Interpretation bringing it within constitutional limit should be preffered. *In this judgment* **AIR 1941 FC 72 In re Hindu Women's Property Act, AIR 1952 Bom 16 State of Bombay v/s Henan Santilal Alreja, ILR 1960 Ker 822 Neelikkandy Kunhammed Haji v/s The Agricultural Income Tax Officer, ILR 1965 (2) Ker 639 Corporation, of Calicut v/s Jothi Tomber Mant, 1964 KLT 791 FB Rt. Rev. A.M. Patroni v/s Kesavan, AIR 1961 SC 652 Daimond Sugar Mills Ltd v/s State of U.P.** *and* **Jothi Timber Mart v/s The Corporation, of Calicut 1970 SC 264** *are relied on.*
ILR 1971 (2) Ker 236 Assan Rowther and three others v/s Umaiva Alias Ammu Umma

Rule bad in part and bad in whole Interpretation of Statutes - Rule 'bad in part, bad in whole' when to be applied- Doctorine of separability- Application of – Test of severability. *In this judgment* **AIR 1957 SC 628 R.M.I.D Chamarbaugwalla v/s Union of India** *and* **AIR 1946 PC 66 Punjab Provice v/s Danlat Singh** *are relied on.*
ILR 1971 (2) Ker 149 = 1971 KLT 23 = 1971 KLJ 461 = AIR 1971 Ker 314 FB Narayanan Damodaran v/s Parameswara Panicker and others

Jurisdiction to decide a question Interpretation of Statutes - Law passed or amended making pending suits or part of the same triable exclusively by a Tribunal. If a court has jurisdiction to decide a question on the date of the suit, the jurisdiction will continue until something has happened to take away that jurisdiction. The ordinary rule is that rights of the litigants are to be governed by the law in force when the action was commenced. *In this judgment* **1960 (3) All ER 97 Attorney General v/s Veernazza, 1956 AC 736 Smith v/s East Ellve Rural District Council, AIR 1936 PC 49 Mukherjee v/s Mt. Ramrattan, AIR 1941 FC 16 United Provinces v/s Atqua Begum** *and* **AIR 1966 SC 1423 Dayawati v/s Inderjit** *are relied on.*

ILR 1971 (1) Ker 379 DB Gopalakrishnan Nair v/s Padmavathy Amma

Function of Court Interpretation of Statutes - Function of court is to give effect to plain words in statute.

ILR 1969 (1) Ker 621 = 1969 KLT 373 The Peermade Tea Company Ltd v/s State of Kerala and others

The results of a statute if unjust Interpretation of Statutes - Mere fact that the results of a statute may be unjust and absured does not entitle courts to refuse to give it effect. *In this judgment* **1949 (2) KB 1 Holmes v/s Bradfield R.D.C.** *and* **1922 1 AC 1 Sutten v/s Briggs** *are referred to.*

ILR 1968 (2) Ker 444 = 1968 KLJ 762 = AIR 1969 Ker 234 FB Lekshmikutty Amma Alias Ammini Amma v/s Bathu

Reason for enactment Interpretation of Statutes - Reason for enactment can be looked into for understanding the true meaning of words in a statute. *In this judgment* **AIR 1955 SC 661 Bengal Immunity Co. v/s State of Bihar** *is followed.*

ILR 1968 (2) Ker 349 = 1968 KLT 405 DB Manual T Paikadey v/s Revenue Inspector, Palai Municipality and another

Literal interpretation Interpretation of Statutes - Literal interpretation not always satisfactory- Factors to be considered for a sure and true interpretation of an Amendment of a provision in statute. *In this judgment* **3 Co. 7 b 1584 Heydon's Case** *and* **1931 AC 126 Ellerman Lines v/s Murray** *are referred to.*

ILR 1968 (1) Ker 136 = 1968 KLJ 70 = 1968 KLT 78 = AIR 1968 Ker 262 FB Parameswaran Nambudiripad v/s The Inspecting Assistant Commissioner of Agricultural Income Tax and sales Tax

Mandatory and Directive Provisions Interpretation of Statutes - Mandatory and Directive Provisions- Distinction- Tests to Distinguish one from the other. *In this judgment* **2 PD 203 Howand v/s Bodington** *is referred to.*

ILR 1967 (2) Ker 548 DB Food Inspector, Calicut v/s Padmanabhan Nair

Doctorine of Ejusdem generic Interpretation of Statutes - Ejusdem generic, doctorine of – Conditions for the application of the doctorine.

ILR 1966 (1) Ker 18 DB Deputy Commissioner of Agricultural income Tax and Sales Tax, Ernakulam v/s Jos Zachariah

Same word may have different meanings Interpretation of Statutes - Same

word may have different meanings in different acts - Decisions on meaning in one statue not of value in construing another statue.*In this judgment* **1911 AC 641 Keales v/s Lewis Merthyar Consolidated Collieries Ltd** *is relied on.*

ILR 1965 (1) Ker 475 = 1965 KLJ 268 = 1965 KLT 308 DB Commissioner Calicut Corporation v/s Mohanlal Medical Stores

Schedule to a fiscal enactment Interpretation of Statutes - Schedule to a fiscal enactment – The schedule is as much a part of the statute, and is as much an enactment as any other Part. *In this judgment* **1920 (1) KB 563 Inland Revenue Commissioners v/s Gittus** *and* **1878 LR 3 Ex D 214 Attorney General v/s Lamplough** *are referred to.*

ILR 1965 (1) Ker 388 = 1965 KLJ 33 = 1965 KLT 69 DB Devassia v/s State of Kerala

Citation or reference of an enactment Interpretation of Statutes - Citation or reference of an enactment in another enactment – Enactment cited subsequently amended – The enactment as amended to be read as cited or refered to.

ILR 1964 (1) Ker 583 = 1964 KLJ 18 = 1964 KLT 747 Lakshmikutty Amma v/s Ramakrishnan

Legislative definition Interpretation of Statutes - Legislative intent and legislative definition – Comparative importance in interpreting provisions in Statutes.

ILR 1964 (1) Ker 10 = 1964 KLJ 1 = 1964 KLT 1 FB Kuriakose Kurian v/s Saramma Chacko

Legal Fiction Interpretation of Statutes - Legal Fiction – Operation of – Confined to Cases within its reason and policy – Agriculturists Debt Relief Act. (XXI of 1958 – Kerala) Section 3 (2) – Not to be applied to cases where defendant deemed to be an agriculturist by virtue of the Amendment by Act 2 of 1961.

ILR 1963 (2) Ker 55 = 1963 KLT 656 = 1963 KLJ 582 = AIR 1963 Ker 348 DB Radhakrishna Punchithaya and others v/s Sanjeeva Rao and others

Illustrations in statutes Interpretation of Statutes - Illustrations in statutes are valuable aids. *In this judgment* **AIR 1916 PC 242 Mohamed Sydol Ariffin v/s Yedh Ooi Gark** *is relied on.*

ILR 1962 (2) Ker 130 = 1962 KLJ 364 FB Ramaswamy Pattamali and others v/s Lakshmi and others

Doctorines Noscitur a socus and Ejusdem generis Interpretation of Statutes - Doctorines 'Noscitur a Socus and Ejusdem generis'- Application of. The doctorines of 'Noscitur a Socus and 'Ejusdoem generis' are mere guides to ascertain the legislative intent in the enactment and cannot therefore be applied so as to make the expression in the enactment meaningless and nugatory.

ILR 1962 (1) Ker 598 Parvathi Amma and others v/s Krishnan and others

Statements of objects and reasons Interpretation of Statutes - Statements of objects and reasons and legislative history as aids to construction of Act.

ILR 1962 (2) Ker 479 = 1962 KLJ 721 DB Karim v/s The Sales Tax Appellate Tribunal

Taxing statutes Interpretation of Statutes - Taxing statutes - Words used in the denomination of articles – Must be under-stood according to their common commercial understanding. *In this judgment* **9 Wheaton US 430 Two Hundred Chits of Tea Smith Claimant** *and* **1951 Canada Law Reports (Exchequer Court) 122 His Majesty the King v/s Planters Nut and Chocolate Company Ltd** *are relied on.*

ILR 1962 (2) Ker 161 = 1962 KLT 608 FB Krishna Iyer v/s State of Kerala and another

Proviso and Explanation Interpretation of Statutes - Proviso and Explanation - Tests to decide.

ILR 1962 (2) Ker 161 = 1962 KLT 608 FB Krishna Iyer v/s State of Kerala and another

When terms of statute are ambiguous Interpretation of Statutes - When terms of statute are ambiguous or vague statement of objects and reasons for the enactment can be referred to.

ILR 1962 (1) Ker 652 Pierce Leslie and Co. Ltd v/s The Industrial Tribunal Kozhikode and another

Evasion is statute Interpretation of Statutes - Evasion is statute - Conditions necessary to establish.

ILR 1961 (1) Ker 532 = AIR 1961 Ker 159 M.R.G. Bros. Bus Service v/s Kandaswami Chettiar and another

Delegated legislative function Interpretation of Statutes - Statutory rules - Court cannot assume delegated legislative function - Cannot read just words. *In this judgment* **(1848 – 50) 81 Rev Rep 520 Exparte Nash, American Jurisprudence Vol 34 P 813** *and* **Halsbury's Law of England 3rd Edn Vol 11 P 101** *are relied on,* **AIR 1954 SC 415 Wazir Chand v/s State of HP, AIR 1954 SC 403 Himmattal v/s State of MP, AIR 1958 SC 1018 State of Bihar v/s D.N. Ganguli** *and* **AIR 1954 SC 440 Basappa v/s Nagappa** *are discussed and explained and* **AIR 1946 Bom 407 Denabai Peht v/s M.S. Naronha** *and* **AIR 1952 Bom 468 State of Bombay v/s Lexmidas** *are not followed.*

ILR 1961 (1) Ker 134 = 1960 KLT 1109 = AIR 1961 Ker 318 DB Natarjan v/s State of Kerala and others

Long Title and preamble Interpretation of Statutes - Long Title and preamble - That the policy and purpose of a given measure may be deducted from the long title and the preamble thereof has been recognised in many decisions of this court.

ILR 1957 Ker 1167 = 1958 KLT 465 SC FB In re Kerala Education Bill

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Judicial review in disciplinary matters Constitution of India - Article 226 - Judicial review in disciplinary matters can be exercised only if there is violation of

principles of natural justice causing prejudice and patent illegality resulting in injustice or the punishment is shockingly disproportionate. *In this judgment* **AIR 2003 SC 1437** *is referred to.*

2005 (3) KLT 657 DB Pushkaran v/s State of Kerala

Person getting elected in a reservation constituency Constitution of India - Articles 226 and 329 (b) - Person not belonging to Scheduled Caste getting elected in a reservation constituency for Scheduled Caste - mere fact that she was elected as a Councillor, does not justify her continuance in office if her election itself is illegal and in violation of statutory mandate - Writ of quo warranto can be issued in spite of the bar under Article 329 (b) - Constitution of India - Articles 329 (b) - Municipality Act, 1994 (Kerala) Section 85 (c).

2005 (3) KLT 275 Madhavi v/s State Election Commission

Judicial Review Constitution of India - Articles 226 - Judicial Review is permissible if the decision adopted is contrary to the Statute.

2005 (3) KLT 53 Paraman v/s Kodungallur Municipality

Follow up action Constitution of India - Articles 226 - The Court can take notice of the follow up action without driving the party to de novo proceedings.

2005 (3) KLT 10 DB Hindustan Coca-Cola Beverages (P) Ltd v/s Perumatty Grama Panchayat

Writ against a Civil Court Constitution of India - Articles 226 and 227 - No Writ will issue against a Civil Court acting within its jurisdiction - When the error is a patent error no elaborate discussion of evidence is necessary to consider that point and the Court under Article 227 of the Constitution has power to correct the error. *In this judgment* **1968 KLT 60, 1991 (2) KLT SN 33 C 43, 1997 (2) KLT 471, JT 2003 (4) SC 605, AIR 2003 SC 1561, 2004 (3) SCC 682, 2004 (4) SCC 785, AIR 1977 SC 403** *and* **1998 (5) SCC 749** *are relied on.*

2005 (2) KLT 895 Vakkom Purushothaman v/s State of Kerala

Vigilance enquiry Constitution of India - Article 226 - Advocate General or Additional Advocate General or an Advocate cannot be subject to any vigilance enquiry, as they do not hold any civil posts under the Government.

2005 (2) KLT 29 Rafeek v/s State of Kerala

An error available for correction Constitution of India - Article 226 - Only when a mistake is apparent on the face of the record that a writ of certiorari will issue - An error which needs to be established by lengthy and complicated arguements cannot possibly be an error available for correction in exercise of jurisdiction. *In this judgment* **AIR 1979 SC 1573, 2004 (2) SCC 267, 2003 AIR SCW 6105, 1987 (2) SCC 295, 2003 (1) KLT SC SN 5 = 2003 (1) SCC 204, 2004 (2)KLT SC SN 5 = 2004 AIR SCW 4221** *and* **2003 (3) KLT 490 SC = AIR 2003 SC 3044** *are referred to.*

2005 (1) KLT 629 DB All India Lawyers Union v/s State of Kerala

Regularization of services of employees Constitution of India - Articles

12 and 226 – Whether the Government have power to issue order directing regularization of services of employees of Cooperative Societies who had been appointed in flagrant violation of the mandatory provision of Act and the Rules – Maintainability of writ petition against Cooperative Society.

2004 (7) SCC 112 FB A. Umarani v/s Registrar, Co-operative Societies and others

To quash a resolution of a Co-operative Society Constitution of India - Article 226 – Writ Petition under Art.226 – It is not maintainable to quash a resolution of a Cooperative Society – Writ petition would have been maintainable against a cooperative institution in respect of certain statutory duties.

This Court had been consistently holding that perhaps a Writ Petition would have been maintainable against a cooperative institution in respect of certain statutory duties. But that is not a case with regard to the application for a writ of certiorari, whereby a resolution of the cooperative institution is sought to be set aside. The basic defect of maintainability always is there. *In this judgment* **2003 (2) KLT 606** *is referred to.*

2004 (3) KLT 25 Abraham v/s Elikulam Service Co-operative Bank Ltd

Alternative remedy Constitution of India - Article 226 – Alternative remedy – On the earlier occasion the question of alternative remedy had not been raised – Hence, Division Bench ought not to have gone in to the question of maintainability of the writ petition. *In this judgment* **1999 (7) SCC 89, 1959 (2) Supp SCR 316, 1964 (5) SCR 86, 1995 Supp (1) SCC 462, 1981 (2) SCC 238, 1970 (1) LLJ 222** *and* **2001 (3) SCC 574** *are relied on.*

2004 (1) SCC 605 DB Radha Raman Samanta v/s Bank of India and others

Writ when an element of public interest is created Article 226 of Constitution - Co-operative Societies are amenable to the Writ jurisdiction of the High Court under Article 226 - When an element of public interest is created on a writ under Article 226 would lie.

2003 (2) KLT 606 Thrissur District Co-operative Bank v/s State of Kerala

Alternate remedy Article 227 of Constitution - Alternate remedy - available, this Court cannot interfere unless there any exceptional circumstances are pointed out.

2003 (1) KLT 459 = 2003 (1) KLJ 265 = ILR 2003 (2) Ker 395 Saseendran v/s Viswambaran

Considering the averment on its true merits Article 226--Relief cannot be granted merely because averment in writ petition had not been specifically rebutted. High Court bound to consider the averment on its true merits before granting relief to writ petitioner.

2002 (3) KLT SN 72 = 2002 (6) SCC 72 = AIR 2002 SC 2589 DB State of Haryana v/s Haryana Civil Secretariat Personal Staff Association

Writ of mandamus Article 226 - Circumstances when writ of mandamus can be issued.

A writ of mandamus is to be issued after circumspection, and only upon the Court being satisfied that the 'State' is either refusing or unduly delaying to act, ignoring its statutory responsibilities and has thus failed to discharge its constitutional duties. That too can be done after a specific notice drawing the attention of the statutory authority demanding redressal has failed to evoke satisfactory response. It appears that the principle underlying Article 226 of the Constitution is not being paid the attention it really deserves. Orders are often issued under Article 226 as if emanating from a slot machine at the drop of a coin and the pulling of a handle. It is time to change. Petitions under Article 226 need to be considered with greater circumspection and dealt with the seriousness they deserve.

2002 (3) KLT 125 = ILR 2002 (2) Ker 324 DB Jayachandran v/s State of Kerala

Seniority of District Judges Article 226 - Alternative remedy - When not a bar - Administrative decision of High Court regarding principle to be applied to determine seniority of District Judges appointed by nomination and promotee District Judges - Writ petition under Article 32 filed against such decision entertained by Supreme Court by issuing rule-- In such circumstances, and also keeping in view that the dispute centered around interpretation of rules, both the parties had made known their stand and no question of fact had arisen, respondents' plea to relegate the writ petitioners to the remedy under Article 226, rejected.

AIR 2002 SC 1181 = 2002 (3) SCC 244 DB Maharashtra State Judicial Service Association and others v/s High Court of Judicature At Bombay And Others

Selection for appointment Article 226 - Second writ petition - Bar of res judicata - Applicability - Selection for appointment - First writ petition field on ground of apprehended bias - Dismissal as withdrawn - Second petition filed on allegations of actual bias--Not barred--Moreso when subject matter of subsequent petition was different.

AIR 2002 SC 790 = 2002 (2) SCC 712 DB G..N. Nayak v/s Goa University and others

Kerala State Handicrafts Apex Co-operative Society Ltd Co-operative Societies Act, 1969 (Kerala) - Writ jurisdiction - Kerala State Handicrafts Apex Co-operative Society Ltd comes within the purview of Article 12 of the Constitution.

When the constitution and functioning of the first respondent society is considered in the background of the above decision I am of the view that it answers the requirement of Article 12 sufficiently well and that the Full Bench decision mentioned above cannot be applied as against the first respondent Bank. I find that the O.P. is maintainable. *In this judgment* **AIR 1999 SC 753** ***is relied on,*** **1987 (2) KLT 903** *is distinguished and* **AIR 1989 SC 1607** *and* **AIR 1990 SC 423** *is referred to.*

2002 (2) KLT 77 Surabhi Employees Trade Union Congress v/s Kerala State Handicrafts Apex Co-operative Society Ltd

Dismissal of an O.P. after a lapse of several years Rule 176 - Availability

of alternative remedy - Relief can be granted in the O.P. in the facts of the case - An arbitration suit is not the only or proper remedy.

In the circumstances, I do not think that an arbitration suit would be the only or even the proper remedy available for the petitioner. Dismissal of an O.P. after a lapse of several years on the ground of alternative remedy would not be proper. In these circumstances, I am of the view that this O.P. deserves consideration on the merits notwithstanding the fact that the resolution which resulted in Ext. P 6 order could have been got rescinded through involvement of the Registrar of Co-operative Societies and notwithstanding the fact that arbitration proceedings also might perhaps have been instituted invoking the provisions of the Kerala Co-operative Societies Act. *In this judgment* **1998 (2) KLT 337** *and* **1999 (2) KLT 683** *are referred to.*

2002 (2) KLT 77 Surabhi Employees Trade Union Congress v/s Kerala State Handicrafts Apex Co-operative Society Ltd

When a Co-operative Society acts in violation of orders passed by Registrar of Co-operative Societies and Government under the Act, the High Court can under art 226 see whether the society follow those circulars and orders. A Writ Petition would not lie against each and every action taken by the Co-operative Society. A Co-operative Society is not a State within the Meaning of Art 12 of the Constitution of India. But a Co-operative Society cannot act malafide by violating the Circular and directions issued by Joint Registrar and Government on the plea that the decision is by a corporate body. When the society acts in violation of the orders passed by the Registrar of Co-operative Societies under Co-operative Societies Act as well as the orders issued by the Government under the Co-operative Societies Act High Court under art 226 of the Constitution of India could see whether the Co-operative Societies follow those circulars and orders. In such a situation they cannot take shelter under the Full Bench decision of this Court in Bhaskaran's case **1987 (2) KLT 903**. Full Bench decision in Bhaskaran's case would apply only when there is direct challenge against various decision taken by the Co-operative Society. What is challenged in this case is that by issuing the present notice society was violating the earlier orders issued by the Joint /registrar, Government as well as contrary to the affidavit filed by them before this Court. It may be pointed out that mandamus cannot be denied on the ground that the duty to be enforced is not imposed by the statue. The judicial control over the fast expanding maze of bodies affecting the rights of the people should not be put into watertight compartment. It should remain flexible to meet the requirements of variable circumstances. Mandamus is a very wide remedy which must be easily available to reach injustice wherever it is found. Technicalities should not come in the way of granting that relief under Art 226.

2002 (1) KLT 857 Pothanicad Farmers Co-operative Bank Ltd v/s Joint Registrar

Statutory appeal or statutory representation Writ of Mandamus - When relief is sought in relation to a statutory appeal or a statutory representation, court should prima facie be satisfied that such an appeal or representation is pending, that the

same has not been disposed of and that the authority called upon to exercise power has statutory duty to do so.

When the relief of mandamus is being sought in relation to a statutory appeal or a statutory representation, the court should be prima facie satisfied that such an appeal or a statutory representation is pending, that the same has not been disposed of and that the authority called upon to exercise power, has a statutory duty to do so, It is also settled that no mandamus can be isued to discharge an optional or discretionary duty. Unless these basis requirements are satisfied the court may not be justified in issuing a high prerogative writ. It is desirable that the court hears the statutory authority before whom the appeal or the statutory petition is pending and ascertain that despite demand there is a failure to discharge the legal duty by the said authority.

2002 (1) KLT SN 61 = ILR 2002 (1) Ker 323 DB Khairunnisa v/s Sarala

Conditions of service If the conditions of service of the employees of Co-operative Societies are not implemented by any society, to that extent of compliance, High Court can extent its jurisdiction under Article 226.

2001 (2) KLT 44 = ILR 2001 (2) Ker 275 Malappuram District Co-operative Bank Ltd v/s Malappuram District Co-operative Bank Employees W. F. Committee

A decision remanding a suit is a judgment Section 96 A decision in an appeal under Section 96 C.P.C. by a Single Judge remanding the suit to the trial court is a 'judgment' within the meaning of Section 5 (ii) of the Act-See-High Court Act, 1958 (Kerala), Section 5 (ii).

2001 (1) KLT 502 = 2001 (1) KLJ 503 = ILR 2001 (1) Ker 292 DB Sharmila v/s Subhadra

Appeal without framing the substantial question of law Section 100 (4) - Second appeal - Substantial question of law - Where High Court allows the appeal without framing the substantial question of law - Held - Judgment is liable to be set aside.

2001 (1) KLJ 91 DB Ramavilasam Grandhasala v/s N.S.S. Karayogam

Redrafting the order under challenge Constitution of India - Article 226 – Court cannot redraft the order under challenge – By redrafting, court is overstepping the bounds of the jurisdiction conferred under Art.226.

While it is often heard that the jurisdiction of the high Court under Art.226 of the Constitution is sky-high, it is occasionally good to be reminded of its limitations in exercise of its power of judicial review. The purpose of judicial review is to ensure that the individual receives fair treatment, and not to ensure that the authority, after according fair treatment, reaches on a matter which it is authorised or enjoined by law to decide for itself a conclusion which is correct in the eyes of the court. Going by such guidance, we are constrained to observe that the learned Single Judge has overstepped the well recgonised bounds of the jurisdiction conferred on the Court under Art.226 of the Constitution of India, by substituting Court's wisdom in the circular of the appellant

and thus re-drafting it. *In this judgment* **AIR 1974 SC 460, 1993 (2) SCC 299** *and* **1982 (3) All ER 141** *are followed.*

2000 (3) KLT 895 DB F.A.C.T. Ltd. v/s Krishnan Unni

Time limit for filing a writ Constitution of India - Articles .226 & 227 – For filing a Writ Petition there is no time limit – A Writ Petition cannot be rejected on the ground of time bar, if the delay is explained.

There is no time limit fixed in filing a Writ Petition. Of course, if there is undue delay or laches on the part of the petitioner, Court will not be inclined to pass a discretionary order under Art.226 & 227 of the Constitution of India. Appellant was 70 years old at the time of filing the Writ Petition. Since it is a continuing liability it cannot be stated that Writ Petition is time barred. Further petitioner was not informed of the details of Medical Board re-assessment even when Ext.P3 was issued. Only when counter affidavit is filed in the Writ Appeal, petitioner came to know that what is stated in Ex.P3 is wrong and Exts. R2(b) & 2(c) Medical Board Certificates are in his favour. On the facts of this case we are of the opinion that a Writ Petition cannot be rejected on the ground to time bar and delay is explained. *In this judgment* **AIR 1996 SC 668** *and* **AIR 1967 SC 1450** *are relied on.*

2000 (3) KLT 827 DB Mathew v/s Union of India

Quashing judicial decision Constitution of India - Article 226 – No writ lies for quashing judicial decision of a Court of law.

No writ will lie for quashing the judicial decision of a Court of law, Since a Writ Petition filed to quash a judicial decision rendered on merits in a proceedings under Art.226 of the Constitution is not maintainable as held by the Supreme Court in the above decision and followed by this Court, we dismiss the Writ Petition on the question of maintainability. *In this judgment* **AIR 1967 SC 1, 1992 (1) KLT 404, 1973 KLT 990** *and* **1968 KLT 60** *are referred to.*

2000 (2) KLT 1 = 2000 (1) KLJ 703 DB Sankarankutty v/s State of Kerala

Judicial review of an administrative action Constitution of India - Article 226 – Grounds upon which an administrative action is subject to control by judicial review.

It is not for the Court to determine whether a particular policy or particular decision taken in the fulfillment of that policy is fair, It is only concerned with manner in which those decisions have been taken. Extent of the duty to act fairly will vary from case to case. Shortly put, grounds upon which an administrative action is subject to control by judicial review can be classified.

2000 (1) KLT 138 = ILR 2000 (1) Ker 796 DB Govindankutty v/s State of Kerala

Dismissal of Secretary of Co-operative Society Constitution of India - Article 226 – Dismissal of Secretary of Co-operative Society on the advice of the Registrar of Co-operative Societies under S.38 of U.P. Co-operative Societies Act – Such an order is statutory in nature and amenable to writ jurisdiction under Art.226.

The scheme of the enactment clearly shows that the order of removal from

service of Secretary of a Co-operative Society made under Sub-s(1) of S.38 by the Society or that under Sub-s.(2) of S.38 by the Registrar is, therefore, statutory in nature. For his reason alone, it must be held that such an order is amenable to the writ jurisdiction of the High Court under Art.226 of the Constitution. The view taken by the High Court that the Writ Petition was maintainable in the present case does not, therefore, call for any interference.

1999 (3) KLT SN100 P 95 SC FB Konch S. & V. Samithi Ltd v/s Sarnam Singh

Driving a person to the alternate remedy Constitution of India - Article 226 – When a party approaches the High Court complaining that the authority has failed to follow the direction of the High Court, the same has to be entertained – It is not proper to drive him to the alternate remedy – Municipality Act, 1994, S.509(1).

The learned Single Judge ought to have exercised the power under Art.226 of the Constitution of India. This is because Ext.P10 order runs counter to the directions contained in Ext.P9 judgment. When a party approaches this Court complaining that the authority has failed to follow the directions of this Court, it is not proper to drive him to an alternate remedy. Hence, we are of the view that it is not necessary to regulate the petitioner to alternate remedy. Hence, we are of the view that it is not necessary to regulate the petitioner to alternate remedy.

1999 (3) KLT SN 74 P 72 DB Elamkulam Village Co-operative Society v/s Corporation of Kochi

Judicial review over disciplinary proceedings Article 226 - Scope of Judicial review over disciplinary proceedings strict rules of evidence are not applicable to departmental enquiry proceedings. The only requirement of law is that the allegation against the delinquent officer must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravamen of the charge against the delinquent officer. Mere conjecture or surmises cannot sustain the finding of guilt even in departmental enquiry proceedings. The court exercising the jurisdiction of judicial review would not interfere with the findings of fact arrived at in the departmental enquiry proceedings excepting in a case of malafides or perversity. The court cannot embark upon reappreciating the evidence or weighing the same like an appellate authority. So long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.

1999 (3) KLT SN 1 SC DB Bank of India v/s Suryanarayana

Whether a statute is mandatory or directory Article 226 - The question as to whether a statute is mandatory or directory depends upon the intent of the legislature and not upon the language in which the intend is clothed. If the provision is mandatory an act done in breach thereof will be invalid. *In this judgment* **1957 SC 912 State of U.P. v/s Manbodhan Lal Shrivastava** *is relied on and* **AIR 1960 SC 444 Drigraj Kuer (Rani) v/s Amar Krishna Narain Singh** *and* **AIR 1961 SC 1480 Sainak**

Motors v/s State of Rajasthan *are referred to.*

1999 (3) KLT 22 = 1999 (2) KLJ 355 FB Surendran and another v/s District Collector and others

State and procedure Article 226 - A Citizen is entitled in law to insist that the state will go by the Procedure which it has laid down.

1999 (3) KLT 1 = 1999 (2) KLJ 252 DB Anirudhan and others v/s State of Kerala and others

Supervisory role over the law making activities of the executive and legislature Article 226 - Court cannot usurp the functions assigned to the executive and the legislature under the consitution. It cannot indirectly require the executive to introduce a particular legislation or the legislature to pass it or assume to itself a supervisory role over the law making activities of the executive and legislature. *In this judgment* **State of Himachal Pradesh v/s A parent of a student of Medical College, Shimla AIR 1985 SC 910** *is relied on.*

1999 (2) KLT 725 = 1999 (2) KLJ 139 = ILR 1999 (3) Ker 383 = AIR 1999 Ker 385 DB Ramakrishnan v/s State of Kerala

Writ against a Government person or authority Constitution of India - Article 226 – A writ can be issued against a Government person or authority if the cause of action has arisen wholly or in part within the High Court's Jurisdiction.

Under Cl.(2) the High Court gets jurisdiction when the cause of action arises wholly or in part within its territorial limits. This position is no way different from the filing of the suit in court Under S.20(c) of the Code of Civil Procedure, 1908, every suit shall be instituted in a court within the local limits of whose jurisdiction the cause of action wholly or in part arises. The result is where the impugned order is made by an authority in another State but it becomes effective on service in State 'A' the High Court in State 'A' shall also have jurisdiction as part of the cause of action arose therein. *In this judgment* **1873 LR (8) CP 107, AIR 1949 PC 78, ILR 1904 (31) Cal 274, AIR 1954 Mad 594, 1889(16) Cal 98, AIR 1956 Nag 204, LR Vol 11 (1874-5) Indian Appeals 283, AIR 1985 SC 1289, 1983 KLT 1017, 1982 Lab IC 1361, 1985 (1) LLJ 331, AIR 1967 Bom 355** *and* **1971 Mad 155** *are referred to.*

1999 (2) KLT 565 = ILR 1999 (3) Ker 111 DB Pitcheiyan v/s Co-optex

Relief would not automatically set aside Article 226 - The relief Granted to a person by the High Court would not automatically set aside or prevail over for the reason that subsequently Full Bench of the High Court has not granted the same in similar cases.

1999 (2) KLT 51 C 55 Narayanan v/s State of Kerala

Interim orders of the courts and tribunals Article 227 - The High Court can interfere with interim orders of the courts and tribunals under Article 227 if the order is made without jurisdiction.

1999 (2) KLJ NOC 14 DB I.C.I.C.I. Ltd v/s Grapco Industries

Election and writ Co-operative Societies Rules, 1969 (Kerala), Rule 35 –

Election to Co-operative Society - Petition seeking a direction to allow agents of candidates to witness inscribing of mark on ballot paper on behalf of blind or physically infirmed or illiterate members of the Society – No legal right on candidates or polling agents to insist that such persons should cast their vote in their presence – Such direction as affecting secrecy in matter of casting vote cannot be given –See – Co-operative Societies Act., 1969 (Kerala) S.109.

AIR 1999 Ker 191 K.V. Solomon v/s Returning Officer, K.V. Co-operative Society Ltd

Order of dismissal Co-operative Society - It is another authority within the meaning of Art 12 of the constitution and a writ petition filed by its dismissed employee to challenge the order of dismissal is maintainable.

1999 (1) SCC 741 = AIR 1999 SC 753 U.P. State Co-operative Land Mortgage Bank v/s Chandra Bhan Dubey

Alternative remedy is not an absolute bar Article 226 - Alternative remedy is not an absolute bar for the maintainability of a writ petition under Article 226 of the constitution where the writ petition has been filed for the enforcement of any of the fundamental rights or where there has been violation of principles of natural justice or where the order or proceedings are wholly without jurisdiction

1999 (1) KLJ 506 = 1999 (1) KLT SN 42 C 44 DB South Travancore Distilleries and Allied products v/s Assistant Commissioner of commercial Tax

Hearing should be done by a judge with an unbiased mind Article 226 - Judge who heard original petition presiding over Division Bench in Appeal against order of single judge in subsequent writ petition. The Courts performing judicial Functions only cannot be expected from the rule of bias as the presiding officers of the Court have to hear and decide contentions issues with an unbiased mind. All judicial functionaries have necessarily to have unflinching character to decide a case with an unbiased mind. Judicial proceedings are held in open court to ensure transparency. An essential requirement of judicial adjudication is that the Judge is impartial and neutral and is in a position to apply his mind objectively to the facts of the case put up before him. If he predisposed or suffers from prejuddices or has a biased mind, he disqualifies himself from acting as a judge. In proceedings under Article 226 of the constitution of India principles of natural justice are observed strictly in letter and spirit. One of the requirements of natural justice is that the hearing should be done by a judge with an unbiased mind. It is in fact a state of mind which sways judgments and renders the judge unable to exercise impartiality in a particular Case.

1999 (1) KLT SN 30 C 30 SC DB State of West Bengal v/s S. Pathak

Writ of certiorari Art.226 - Issue of a writ of certiorari quashing the impugned award cannot be refused on the ground that no substantial injustice or prejudice has been caused to the petitioner-If the Tribunal has no inherent jurisdiction, its finding which is contrary to law is patently erroneous.

Cause (f) of S.69 of the Act contemplates that it is only in the case where the

society has or had business transaction with any person on any person claiming through such a person that a dispute can be decided by the Co-operative Arbitration Court. Here, the vehicle was intended to carry on the business of the Society. That is the solitary incidental act of commercial transaction that was entered into between them and it cannot be said that the society has or had business transactions with the petitioner / appellant. As has been rightly decided by the Full Bench of this Court that an incidental transaction between a co-operative Society and any other person would not amount to a dispute coming within the purview of S.69 of the Act. This dispute essentially is one which could be decided only by a competent civil court in a properly constituted civil suit. It may be true that both parties have led evidence. But, a suit of which cognizance could be taken by the civil court, if decided by an arbitrator under the Co-operative Societies Act, who have no jurisdiction, it cannot be said that no prejudice was caused to the petitioner/appellant. The contention that the civil court would have come to the sae conclusion, had a suit been filed, is based on a speculation or hypothetical expectation. The finding of the Tribunal which is contrary to law is patently erroneous. The Tribunal, who has no inherent jurisdiction imposed a heavy liability and the decree thereunder if executed would result in substantial or manifest injustice.

1998 (1) KLT 942 = ILR 1998 (3) Ker 155 = AIR 1998 Ker 259 = 1998 (2) KLJ 53 T.V. Sundaram Iyengar & Sons v/s Cannanore District wholesale Co-operative Consumer Stores Ltd

Repeated petitions cannot provide an excuse for the delay Article 226 - Delay and laches - Delay of two years in filing the O.P. Repeated petitions may be indicative of the petitioners persistence or optimism but cannot provide an excuse for the delay. - The petitioner has approached this Court by filing the above O.P. only after a delay of two years, Repeated petitions may be indicative of the petitioner's persistence or optimism but they cannot possibly provide an excuse for the delay that has occurred. Two years period have elapsed before this O.P. was filed in this court and therefore, that should be sufficient to entail the dismissal of the O.P. on the ground of laches.

1998 (1) KLT 432 = 1998 (1) KLJ 331 Canara Bank Staff Union v/s Union of India

Differing judgments rendered by different benches Article 141 - Earlier decision rendered by three member Bench of Supreme Court not referred to or dealt with but differing judgment rendered by two member Bench - Procedure to be followed by High Court.

In **Union of India v/s K.S. Subramanian, AIR 1976 SC 2433** the Apex Court has held that the proper course for High Court in such circumstances is to try to find out and follow the opinions expressed by larger benches of the Supreme Court in preference to those expressed by similar Benches of the Court. That is said to be the practice followed by the Supreme Court itself. The said practice has naw crystallised

also into a rule of law declared by the supreme Court. If the High Court is of opinion that the views expressed by larger Benches of the Supreme Court are not applicable to the facts of the case, it should say so giving cogent reasons supporting its point of view. It is not given to the High Court to mechanically follow a later decision rendered by a smaller Bench ignoring the earlier decision of a larger Bench in spite of the fact that the latter smaller Bench does not even specifically refer to or deal with the earlier decision of the larger Bench.

1998 (1) KLT SN 6 P 9 = 1997 (2) MLJ 598 Periyaswamy v/s Kaliammal

Alternative remedy Article 226 - As original petition need not be disposed of holding that there is an alternative remedy after seven years of admitting the same, if there is a question which requires the interpretation of a provision of law.

1997 (2) KLT SN 5 P 23 Rajan v/s Hindustan News Print Ltd

Relief wrongly given to others Article 226 - Relief wrongly given to others cannot be claimed as a matter of right. Art.14 would apply only when invidious discrimination is meted to equals and similarly circumstanced without any rational basis or relationship in that behalf. The respondent has no right whasoever and cannot be given the relief wrongly given to the others. There is no invidious discrimination in case. Wrong order cannot be the foundation for claiming equality. A wrong decision by the Government does not give a right to enforce the wrong order and claim parity or equality. A wrong decision by the Government does not give a right to enforce the wrong order and claim parity or equality. Two wrongs can never make a right.

1997 (2) KLT SN 17 P 16 State of Haryana v/s Ramkumar Mann

Disciplinary proceedings and Super annuation Art.226-An employee cannot be allowed to get away from the clutches of the law on the technical plea of attaining the age of super annuation - Relief under Art.226 should be refused if the exercise of the extraordinary and discretionary jurisdiction will result in gross injustice - Co-operative Societies Act, 1969 (Kerala), S.66

1997 (1) KLT SN 85 P 64 Papachan v/s State

Conduct of the elections Section 28(1) (B) - Court under Art. 226 can only direct the authority to exercise the power and cannot substitute its decision to that of the authority and direct holding of the elections - Constitution of India. Art. 226.

The administrator appointed for the reason stated in the order of supersession will have to manage the affairs of the society for a period not exceeding one year. It is also open to the Registrar to exercise his discretion to the extended period, but it shall not exceed two years. In view of the specific provision and in the light of the decision of the Division Bench of this Court and taking into account the circumstances of the case, I do not find any reason warranting the issue of a direction to hold the election to the managing committee of the society as prayed for.

1997 (1) KLT SN 20 P 17 Krishan v/s Joint Registrar

View of Single Judge is also law declared Art. 141-Decision by three Judges Bench of Supreme Court-Two Judges expressing some doubt about the

applicability of Art. 144 of the Limitation Act of 1908 to the facts of a cases - Minority judgment applying principles of Art. 144 - Effect of the judgments - View of Single Judge is also law declared by the Supreme Court.

The law declared referred to in Art. 141 of the Constitution of India is the law to be gathered from any judgment in a case decided by the Supreme Court, whether it is the judgment of a Judge forming the majority or of a Judge in a minority and dissenting. Art. 145 (5) uses the word "judgment' both with regard to the final pronouncement of the court itself as well as for the dissenting pronouncement of an individual Judge who does not concur. Having regard to the provisions of Art. 145 (5) that a Judge who does not concur may also deliver a judgement, it is clear that law declared may as well be in a dissenting judgment as in a majority judgment.

1996 (2) KLT SN 64 P 57 = 1996 (2) MLJ 113 Subbayan Chettiar v/s Ramu

Exercise of the judicial review Article 226 - Matters to be considered while exercising the judicial review.

While exercising judicial review, the Court is called upon to tests an administrative/ quasi-judicial order, only if it is satisfied that there a failure to exercise jurisdiction or if there is excess or abuse of discretion. Even authorities imposing fetters on discretion by self-imposing rules of policy, if there is an non-application of mind, the Court may interfere in exercise of judicial review. In cases where the authority has exceeded it jurisdiction or relied on irrelevant materials or actuate by mala fide, or for improper purpose or acted total disregard of the principles of natural justice court may interfere in exercise of judicial review. However, while exercising the power of judicial review, court is reviewing not the merits of the decision, but the decision-making process.

1996 (2) KLT 358 Varghese Joseph v/s State of Kerala

Alternate remedy Article 226 - Mere existence of an alternate remedy does not prevent the court from exercising its jurisdiction under Art.226. In the case of patent illegalities and lack of jurisdiction, this Court would exercise its jurisdiction under Art.226 of the Constitution of India and will not relegate the parties to the alternate remedies.

1996 (2) KLT 203 = 1996 (2) KLJ 121 Alicekutty v/s Kadambazhippuram Grama Panchayat

Writ of certiorari Article 226 - A writ of certiorari can be issued in a cases where there has been a denial of natural justice before a court of summary jurisdiction despite existence of an alternative remedy. - There may conceivability be cases where the error, irregularity or illegality touching jurisdiction or procedure committed by an inferior court or tribunal of first instance is so patent and loudly obtrusive that it leaves on its decision an indelible stamp of infirmity or vice which cannot be obliterated or cured on appeal or revision. If an inferior court or tribunal of first instance acts wholly without jurisdiction or manifestly conducts the proceedings before it in manner which is contrary to the rules of natural justice and all accepted rules of procedure and which offends the superior court's sense of fair play the superior Court may, quite properly

exercise its power to issue the prerogatives writ of certiorari.

1996 (2) KLT 775 = 1996 (2) KLJ 365 Praddep v/s Kandanassery Panchayat

Strict rules of pleading need not be followed in writ Articles 21 & 226 - Strict rules of pleading need not be followed in proceedings under Art. 226 of the Constitution.

In cases of an application for a writ of habeas corpus, the practice is not to follow strict rules of pleading nor place under emphasis on the question as to on whom the burden of proof lies. Even a postcard written by a detenu from jail has been sufficient to activise the Court into examining the legality of detention. Article 21 of the Constitution provides in clear and explicit terms that no one shall be deprived of his life or personal liberty except in accordance with procedure established by law.

1996 (1) KLT 645 = 1996 (1) KLJ 483 = ILR 1996 (3) Ker 235 Vimalamma v/s State

Compassionate relief Article 226, 142 - Compassionate relief - Supreme Court is empowered under Article 142 - High Court has no such powers.

AIR 1996 Ker 337 Kandankutty and others v/s State of Kerala and others

Interim and miscelaneous orders passed by the trial court cannot be challenged by way of a Writ Article 226 - Writ Jurisdiction - High Court will not permit be extraordinary Court will not permit the extraordinary jurisdiction to be converted into a civil court under the ordinary law - When a suit is pending between the two parties the interim and miscelaneous orders passed by the trial court cannot be challenged by way of a Writ Petition under Art.226. When a suit is pending between the two parties the interim and miscellaneous orders passed by the trial court-against which the remedy of appeal of revision is available-cannot be challenged by way of a writ petition under Article 226 of the Constitution of India. Where the Civil Court has the jurisdiction to try a suit, the High Court cannot conver itself into an appellate or revisional court and interfere with the interim/miscellaneous orders of the civil court. The writ jurisdiction meant for doing justice between the parties where it cannot be done in any other forum.

1996 (1) KLT SN 35 P 27 S.S. Jain Samiti v/s Sri. R.J.I. College

Death of respondent during pendency of writ Articles 226 and 227 - Death of respondent during pendency of writ petition-Petitioner has to take steps for substitution of legal representative within a reasonable time-There is no automatic abatement of the proceedings.

After the death of the respondent it is incumbent on the part of the petitioner or the appellant to substitute the heirs of such respondent within a reasonable time. The High court may take note of the period prescribed under Art.120 of the Limitation Act for substituting the heirs of the deceased defendant or the respondent. If the High Court is satisfied that delay, if any, in substituting the heirs, of the deceased respondent was not intentional, and sufficient cause has been shown for not taking the steps earlier, the High Court can substitute the legal representative and proceed with the hearing of

the writ petition or the writ appeal, as te case may be. At the same time the High Court has to be conscious that after lapse of time a valuable right accrues to the legal representative of the deceased respondent and he should not be compelled to contest a claim which due to the inaction of the petitioner or the appellant has become final.

1996 (1) KLT SN 14 P 9 Puran Singh v/s State of Punjab

Writ petition dismissed at the admission stage Article 226 - Earlier writ petition dismissed at the admission stage - Another writ petition filed concealing its dismissal-Even though the earlier dismissal was not on merits-The practice adopted by the petitioner will be an abuse of the process of court and will lead to introduction of disorder, confusion and chaos relating to exercise of writ jurisdiction. - It is well established salutary rule of judicial practice and procedure that an order of a single Judge Bench or of a large Bench of the same High Court dismissing the writ petition either on the ground of laches or non-exhaustion of alternative remedy, as well, shall not be bypassed by a single Judge Bench or Judges of a larger Bench except in exercise of review or appellate powers possessed by it.

1995 (2) KLJ 340 K. Sreejala v/s Manager, S.N.V.T.T.T.I. and others

If the procedure is fair and reasonable Court will not interfere Article 226 - In case the decision making process is found to be unreasonable or unfair, Court will not hesitate to set it down as unauthorised or illegal - This court, while examining the review of an order of an authority either administrative or quasi-judicial shall be more concerned with the decision making process. If the procedure for taking a final decision is fair and reasonable, this court will not ordinarily interfere.

1995 (2) KLT SN 14 P 13 Ramanujam v/s Intelligence Officer

Contrary decisions Article 141 - Decision of a three Judge Bench of Supreme Court - Co-equal Benches taking contrary view distinguishing earlier decision - Division Bench of High Court cannot take the view that the earlier decision was not binding on it.

1995 (2) KLT SN 28 P 22 Indian Oil Corporation v/s Muncipal Corporation

Every illegal order or act of public authority need not be quashed Article 226 - Kerala Co-operative Societies Act (1969), Sections 32, 33 - Extraordinary jurisdiction - Every illegal order or act of public authority need not be quashed - Court has to consider if it would be just to interfere - Registrar's order under Section 33 of the Act without jurisdiction in extending term of Administrator of Co-operative Society Executive Committee of the Society since superseded, removal of Administrator would have left leave its affairs unlooked after and non-removal tantamounting to tolerating ultra vires act of Registrar - Petition seeking removal of Administrator, declined.

In the instant case Registrar of Co-operative societies extended the term of Administrator from beyond one year under Section 33 of Kerala Cooperative Society Act to look after the affairs of Kalamachal Handloom Weavers' Co-operative Society Limited since its executive committee had been superseded. The ousted committee sought for removal of administrator. Held, on the one hand removal of Administrator

would leave the society with one to look after its affairs and on the other non-removal would tantamount to tolerating ultra vires act of Registrar in extending terms of Administrator and as such petition under Art.226 is not maintainable since instead of aiding the cause of justice it would result in chaos and disorder discloacting the working of the society.

AIR 1995 Ker 202 R. Thulaseedharan & another v/s State of Kerala & others

Tendency of officers to pass orders ignoring orders of the Court Article 226 - Tendency of officers of the Co-operative Department to pass orders after they are fully aware of the orders of the Court - deprecated. If it is found that the authorities under the Act are fully aware of the orders of this court, any attempt to act either ignoring such orders or even after knowing those orders as stated in is the present counter, it would give an occasion to the court to tread on delicate grounds to deal with such officers.

1995 (1) KLT 486 = 1995 (1) KLJ 492 = ILR 1995 (2) Ker 631 Padmanabhan v/s Joint Registrar

Legal lacuna Article 226 - Even if a legal lacuna is traced out in the orders impugned, the discretionary power need not be exercised unless such lacuna has resulted in substantial injustice to the party concerned.

1994 (2) KLT 679 FB = 1994 (2) KLJ 618 = ILR 1995 (1) Ker 223 Babu Raj v/s State of Kerala

While the cause of action survives the petitioner dies Article 226 - If the original petitioner died and the cause of action survives, his legal representatives or his successors in interest are entitled to get themsleves impleaded in the proceedings. *In this case* **AIR 1977 A.P. 319 P.V.Sarma v/s S.C. Railway Employees Co-operative Credit Society** *is relied on.*

1994 (2) KLT 759 = 1994 (2) KLJ 721 K.S.E.B. v./s K.J. Joseph

Legitimacy of judicial reasoning Article 226 - The reliefs granted by the courts must be seen to be logical and tenable within the frame work of the law and should not incure and justify the criticism that the jurisdiction of courts tend to degenerate into misplaced sympathy, generosity and private benevolence. - Legitimacy of judicial reasoning. The reliefs granted by the courts must be seen to be logical and tenable within the frame work of the law and show not incur and justify the criticism that the jurisdiction of courts tends to degenerate into misplaced sumpathy, generosity and private benevolence. It is essential to maintain the integrity of legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal finding and the judicial results must be seen to be principled and supportable on those findings

1994 (1) KLT 651 = 1994 (1) KLJ 595 Kerala Solvent Extractions Ltd v/s Unnikrishnan

Co-operative Society whether a private body with no public duty Whether writ of mandamus can be issued

The "any person or authority" employed in Art. 226 shall not be confined to the statutory authorities and instrumentalities of the State. In as much as the affairs of

the society are managed by the Board subject to the provision in the Act as also the Rules it cannot be said that the management of the society is purely a private body with no public duty. There exists a legal duty relationship between the employee and the society and as such writ of mandamus cannot be refused. *This judgment was dissented in* **1992 (2) KLJ 180 P. Sasi, Chairman, RAIDCO v/s Joint Registrar 1990 (2) KLT 755 = 1990 (2) KLJ 784 = 1991 Lab IC 367 Saraswathy Amma v/s Kerala State Co-operative Bank**

Issue of mandamus If the rights are of a private character no mandamus can issue. If the management of the college is purely a private body with no public duty writ of mandamus will not lie. There are two exemptions to mandamus. But once these are absent and when the party has no other equally convenient remedy mandamus cannot be denied. When the University has taken a decision regarding their pay scales, it will be binding on the management. The service conditions of the academic staff are, therefore, not purely of private character. When there is existence of this relationship writ of mandamus cannot be refused to the aggrieved party.

AIR 1989 SC 1607 Shri Anadi Mukta Sadguru SMVSJMS v/s V.R. Rudrani

Authority used in Article 226 The term Authority used in Article 226, in the context must receive a liberal meaning unlike the term in Article 12 Article 12 is relevant only for the purpose of enforcement of fundamental rights under Article 32 Article 226 confers power on the High Court to issue writs for enforcement of the fundamental rights as well as non-fundamental rights. The words "any person or authority used in Article 226 are, therefore not to be confined to only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The form of the body concerned is not every much relevant. What is relevant is the nature of the duty imposed on the duty. The duty must be judged in the light of positive obligation owned by the person or authority to the affected party. No matter by what means the duty is imposed. If a positive obligation exists writ of mandamus cannot be denied. *This judgment was followed in* **1970 (3) SCC 571 K. Krishmacharyulu v/s Sri Venkiteswara Hindu College of Engineering**

AIR 1986 SC 1607 Alladi Sadguru's Case

Writ and promotion in Co-operative Societies Article 12 - Co-operative Societies are not State or other authorities amenable to the writ jurisdiction. Thus where qualifications have been prescribed by the old bye-laws or service rules for promotion, persons fulfilling those qualifications are entitled to promotion even after the new rules, notwithstanding the fact a different or higher qualifications is insisted under new rules. The qualifications acquired under the old bye-laws can enable the existing employee to earn promotion to one higher post and not to all the vacancies in the higher posts. *In this case* **1982 KLJ 124, OP 1684 / 1975** *and* **OP 549 / 1975** *were overruled and* **1984 KLT 248** *was partly overruled.*

1988 (1) ILR 219 = 1988 AIR Ker 75 = 1987 (2) KLJ 1461 = 1987 (2) KLT 903 = 1987 (1) KLN 690 FB P Bhaskaran and others v/s Additional Secretary, Agricultural Department, Trivandrum and others

Co-operative Societies are not State or other authorities Articles 12 and 226 of the Constitution of India - The Co-operative Societies are not created by the Co-opeative Societies Act and they are not statutory bodies. They are only functioning in accordance with the provisions of the Act. These institutions would have legal existence even if the Co-operative Societies Act was not in force. Moreover, the Government has no shares in the Co-op. Societies. There is no deep and pervasive State control. The management of the societies do not vest in the Government or in the representatives of the Govt. The management is under the effective control of a committee elected by the members of the societies. The statutory regulation or restriction in the functioning of the societies is not 'an imprint of State under Article 12'. Therefore no writ will lie against a Co-operative Society governed by the Kerala Co-operative Societies Act.

1988 (1) ILR 219 = 1988 AIR Ker 75 = 1987 (2) KLJ 1461 = 1987 (2) KLT 903 = 1987 (1) KLN 690 FB P Bhaskaran and others v/s Additional Secretary, Agricultural Department, Trivandrum and others

Legislation Court cannot mandate executive to initiate legislation.

1986 KLT 1163 Gangadharan v/s State

The order of Tribunal challenged Kerala Co-operative Societies Act - Section 85 - Constitution, Article 226 - The order of Tribunal which was challenged before the High Court in the writ petition was dismissed by affirming the award of the Tribunal. The contention that orders passed under Section 115 CPC is not applicable to decisions rendered under Article 226 of the Constitution cannot be accepted since it is likely to lead to conflicting decisions by the Subordinate Courts, Tribunals and Authorities inconsistent with decisions of the Superior Courts.

1986 KLT 195 = 1986 (2) ILR 73 DB Manakad Service Co-operative Society Ltd v/s Manikantan Nair and others

Ground for interference Political motive is no ground for interference.

1985 KLT 344 Vasudevan v/s State

Interfering with policy decision Court would be slow in interfering with policy decision of the Government.

1984 KLT 1009 Pathai v/s State

Co-operative Society not a State Co-operative Society not 'State' - Writ jurisdiction under Article 226 cannot be exercised.

(Kerala Co-operative Societies Act, 1959, Section 1)

1980 Lab IC 430 Kar

Writ challenging a show cause notice Employee of a Co-operative Society challenging a show cause notice issued by society to terminate his service remedy is damages and writ is not maintainable.

1976 KLT 414 Sebastian v/s Co-operative Inspector

Writ and Co-operative Society Co-operative Society - Normally not amenable to writ jurisdiction.

(Madhya Pradesh Co-operative Societies Act, 1961, Section 4)

AIR 1976 MP 152

Writ and election When a writ petition is maintainable in election, where the question raised is fundamental and is about the Jurisdiction of the Returning Officer to fix a date for poll and conduct election in violation of Rule 35 (3) (b), the High Court can interfere under Article 226 of the Constitution.

Writ of certiorari being a discretionary remedy the court can permit an application to be made by the member of the public who might have some interest in the matter.

1976 KLT 40 = ILR 1976 (1) Ker 95 Devassy v/s Assistant Registrar

Rejection of nomination paper Writ petition against rejection of nomination paper is not maintainable

The provisions contained in sub-section (3) of Section 69 of the Act do not in any way affect the jurisdiction of the court under Arts. 226 or 227 of the Constitution. It is, however, well settled that when alternative and equally efficacious remedy is open to a litigant, he should be required to pursue that remedy without invoking the special jurisdiction of High Court. The question, no doubt, is one of propriety of interfering with the exercise of jurisdiction with the order of the Returning Officer before any election is held.

1975 KLT 636 Aravindaksha Panicker v/s P.S. Co-operative Society

Discretion when can be exercised The object of Article 226 of the Constitution is to provide a speedy remedy to persons aggrieved by orders passed or action taken by public authorities and Tribunal which involve the infringement of legal right of private persons. If the party who has approached the Court for relief is found to have suffered no legal injury and hence no locus standi to seek relief under the Art. 226. Hence the Court has to dismiss it.

ILR 1974 (2) Ker 208 Iranikulam Co-operative Society v/s Kuttikad Service Co-operative Bank

Mandamus Non-compliance - Mandamus or declaratory relief can be granted in case non-compliance with mandatory bye-laws.

(Gujarat Co-operative Societies Act (10 of 1962) Section 14)

1973 (14) Guj LR 786

Claim against Government Writ petition is not barred where relief is also claimed against the Government.

(Bombay Co-operative Societies Act, 1925, Section 54 (as applied to Delhi))

AIR 1973 Del 148 = ILR 1972 (1) Del 698 = 1972 Rajdhani LR 39 = 1973 (9) Co-op LJ 215

Locus standi Society has no locus standi to make an application under Art. 226 of the Constitution of India of the individual grievances of the member.

1966 KLT 659 Perumbavoor Merchants Association v/s Perumbavoor Municipal Council

PRELIMINARY

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THE KERALA CO-OPERATIVE SOCIETIES ACT, 1969

(Act 21 of 1969)

An Act to consolidate, amend and unify the laws relating to Co-operative Societies in the State of Kerala

*[**Preamble :- WHEREAS** with a view to provide for the orderly development of the Co-operative sector in the State, by organising the Co-operative Societies as self governing, democratic institutions to achieve the objects of equity, social justice and economic development, as envisaged in the directive principles of State Policy of the Constitution of India, it is expedient to consolidate, amend and unify the law relating to Co-operative Societies in the State.]

Be it enacted in the Nineteenth Year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

S1. Short title, extent and commencement:- (1) This Act may be called the Kerala Co-operative Societies Act, 1969.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint:**

[1]Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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* Substituted by Act 1 of 2000 w.e.f. 1.1.2000

**The Kerala Co-operative Societies Act, 1969 came into force on 15.5.1969 by Notification. No. 24314/C3/69 AD dated 12.5.1969. It was published in K.G. Ex. No. 102 dated 11.4.1969. The Bill was published in K.G. Ex. No. 94 dated 13.6.1967 and the Report of the Select Committee in K.G. Ex. No. 20 dated 22.1.1968.

[1]This clause empowers the Government to extend the commencement of a Section or Amendment from the date of its actual publication in the Gazette.

The statement of objects and reasons of the Act is as shown below

The law relating to Co-operative Societies in the Malabar area of the State is contained in the Madras Co-operative Societies Act, 1932. In the Travancore -Cochin area of the State, the corresponding law in force is the Travancore- Cochin Co-operative Societies Act, 1951. It is considered necessary to enact a uniform law on the subject applicable throughout the State. The field of co-operative activity is expanding and certain changes in the law to suit the needs of the present day are also felt necessary. The bill is intended for the above purposes.

2. Apart from the provisions relating to the constitution and regulation of co-operative societies, the principle of State Partnership in co-operative societies and State Participation in their management is also is also recognised in this Bill and provision has been made for the same. Provision has also been made for the constitution of Tribunals in order to exercise certain functions of appeal, revision and review, as provided for in Chapter XII of the Bill (K.G. Ex. No. 94 dated 13.6.1967)

NOTES

The following amendments of the Act have been incorporated in this book.

(1) The Kerala Co-operative Societies (Amendment) Act 1971 (Act 38 of 1971). This act has repealed Ordinance 19 of 1971 which came into force on 9.10.1971.
(2) The Kerala Co-operative Societies (Amendment) Act, 1974 (Act 8 of 1974). This Act has repealed Ordinance 13 of 1973 which came into force on 20.11.1973.
(3) The Kerala Co-operative Societies (Amendment) Act 1986 (Act 29 of 1986). This Act has repealed Ordinance 55 of 1986 and 59 of 1986.
(4) The Kerala Co-operative Societies (Amendment) Act 1987 (Act 19 of 1987).
(5) The Kerala Co-operative Societies (Amendment) Act, 1988 (Act 7 of 1988). This Act has repealed Ordinance 8 of 1988.
(6) The Kerala Co-operative Societies (Amendment) Act, 1992 (Act 5 of 1992). This Act has repealed Ordinance 3 of 1992.
(7) The Kerala Co-operative Societies (Amendment Act) 1993 (Act 16 of 1993). This Act has repealed Ordinance 6 of 1993.
(8) The Kerala Co-operative Societies (Amendment) Act, 1995 (Act of 1995) This Act has repealed Ordinance 10 of 1995.
(9) The Kerala Co-operative Societies Amendment) Act No. 15 of 1997.
(10) The Kerala Co-operative Societies (Amendment) Act No. 1 of 2000.
(11) The Kerala Co-operative Societies (Amendment) Act No. 3 of 2002.
(12) The Kerala Co-operative Laws (Amendment) Act No. 16 of 2004

CASE LAWS

Other authority Article 12 of the Constitution - "Other authority" - Test for whether a body is instrumentally or agency of Government - Considerations therein - Form in which body is constituted, namely, whether as a society or a co-operative society or company not decisive - Real status of the body with respect to the control of the Government to be looked into - Ajay Hasia tests to be applied and considered cumilatively - There is no hard and fast formula - In different facts / situations, different factors could be found to be overwhelming and indicative of whether the body is an "Other authority". *In this judgment* **1981 (1) SCC 722, 1979 (3) SCC 489, 2002 (5) SCC 111, 1991 (4) SCC 578, 2002 (2) SCC 167, 1989 (2) SCC 691, 1997 (3) SCC 571** *and* **2001 (1) SCC 298** *are referred to.*

2003 (8) SCC 639 = AIR 2003 SC 4531 = JT 2003 (8) SC 235 DB General Manager, Kisan Sahkari Chini Mills Ltd, Sultanpur, U.P. v/s Satrughan Nishad and Others

Violation of fundamental right Co-operative Societies (Amendment) Act, 2002 (Kerala) – Is not violative of Art, 19 (1) (e) of the Constitution as there is no violation of fundamental right.

There is no fundamental right for any citizen to be a member of a co-operative society; his right is governed by the provisions of the statute. It is significant in this context to note that none of the rights of primary agriculture credit societies or urban co-operative banks has been affected by the impugned amendment. *In this judgment* **1985 (1) SCC 523, 2001 (4) SCC 534, AIR 1985 SC 973** *and* **AIR 1997 SC 1413** *are referred to.*

2003 (1) KLT 297 = AIR 2003 NOC Ker 243 Alapuzha District Co-operative Bank Ltd v/s State of Kerala

Constitutional validity Co-operative Societies (Amendment) Act, 2002 (Kerala) – Challenge against the Constitutional validity – Held, is constitutionally valid.

Classification for the purpose of keeping the non-credit and non-banking primary societies away from the main stream and attributing a different status of membership without participatory opportunities is impermissible. A Central Society shall not treat its members differently since all the members in that society are other societies with similar privileges and obligations in relation to the Central Society. It will not also be out of context to note that the funds of the district Co-operative Banks take is not only the funds of primary agriculture credit societies and urban banks, but also other non-credit societies and individuals.

2003 (1) KLT 297 = AIR 2003 NOC Ker 243 Alapuzha District Co-operative Bank Ltd v/s State of Kerala

Validity of the Ordinance The validity of the Ordinance 3 of 1992 replaced by Act 5 of 1992, fixing the term of the Managing Committee not exceeding three years was challenged - Upheld the validity of the Ordinance among other grounds.

O.P. No. 1812 of 1992 A. Ali Hannan, Kilimannoor Co-operative Agricultural and Rural Development Bank v/s State

Encroachment upon the judicial power Rule 200 (newly substituted) cannot have the effect of reversing the earlier judgement of the Court and is not bad. The Rule does not encroach upon the judicial power.

1989 Co-op LJ April

Government should be made a party Rules under an Act challenged as invalid - Government should be made a party - The rule making authority, the State Government should have been made a party. In the absence, of the proper party, court does not have any effective assistance to have the background on which the rule was framed, and the information relevant for the adjudication of the question including that relating to the object of the section on one hand and the rule on the other.

1987 (1) KLT 201 Kunhikrishnan v/s Secretary, Nadapuram Service Co-operative Bank Ltd

Directive principle of the State Policy The Co-operative Societies Act has been enacted having regard to the directive principle of the State Policy as enshrined in the Constitution of India. Co-operative movement is a socio-economic and moral movement. To say the least it is a part of the scheme of decentralization and deconcentration of power. Collective power intoxication cannot be equated with Co-operation. In the very nature of the said movement it must not be only self regulated but the constraints and the restrains are inherent in the movement itself. The rights conferred or created by the statute are coupled with duty. Fixity of tenure helps proper administration and management of the Society. Co-operative movement cannot be permitted to be polluted or checked by internal or individual strike nor it can be permitted to be polluted by party politics. Whenever the legislative thought that a person is not fit to continue as a member of the board, specific provisions are made for his removal. A person is elected as Chairman or Vice-Chairman for a particular term. His office is controlled by the provisions of the Act. It is not an office at will and, therefore, to such an office Section 16 of the General Clauses Act cannot apply. (Section 73 (G) (2), Maharashtra Co-operative Societies Act 1960 (24 of 1961))
AIR 1982 Bom 216 = 1982 (1) Bom LR 65

Proceedings initiated under Madras Act Proceedings initiated under Section 49 of the Madras Act can be continued under the Kerala Act

The continuance of the proceedings initiated under the Madras Act, under the Kerala Act is directed only subject to the provisions of Sections 4 and 23 of the Interpretations and General Clauses Act, and also only to the extend to which (so far as may be) they can be deemed to have been made or instituted under the provision of the new Act. Sections 4 and 23 of the interpretation and general Clauses Act give certain vested right to persons in respect of proceedings instituted under the earlier Act, and provide that they are liable to be continued under the earlier Act. The scope and content of Section 68 of the Kerala Act is quite different from that of Section 49 of the Madras Act. Wilful negligence can be attributed to, or found against the petitioner, the continuance of the proceedings under the Kerala Act would not be consistent with, or warranted by the provision of Section 110 of the Kerala Act
1979 KLT 152 Deputy Registrar of Co-operative Societies v/s Kunhikannan

Policy principles and standards for the guidance of the delegate Preamble and the provisions of the Act sufficiently indicate the policy principles and standards for the guidance of the delegate. The State Government must be guided by them while exercising the delegated power.
AIR 1974 MP 59 = 1974 Co-op LR 87 = (1974) 10 Co-op LJ 93 = 1974 MPLJ 1 = 1974 Jab LJ 16

Special privileges are not discriminatory Registered Co-operatives being a class by themselves enjoy special privileges which cannot be said to be discriminatory. (Section 21 (C) (as inserted in 1970), Andhra Pradesh Co-operative Societies Act 1964)
1973-74 (9) Co-op LJ 85

Execution of award under Travancore Co-operative Societies Act - Petition for execution of award passed under Section 60 whether will lie in a Civil Court - The deeming provisions contained in Section 63 (a) of the Travancore Cochin Co-operative Societies Act, 1951 goes to the extent of enabling the award holder to file an execution petition to enforce the same in the court which is competent to pass a decree in respect of the matters covered by the award. Even if the execution petition filed under the Act is not maintainable, in view of Section 110 (2) of the Kerala Act, that petition can be treated as an execution petition under the new Act.

ILR 1973 (1) Ker 340 Parameswaran Pillai v/s Swaraj Motor Employees Co-operative Society

Suit instituted under the Madras Act The intention of the legislature was to apply the provisions of this Act not only on future litigation, but also in all the litigations which would be pending on the date of the Act. Therefore, the suit instituted when the Madras Act was in force shall be deemed to have been instituted under the purview of the Kerala Act. Hence the plaintiff has no right to institute the suit before the civil court but he has to seek his remedy before the Registrar of Co-operative Societies.

1970 KLT 1057 Kunhiraman v/s Purameri Service Co-operative Bank Ltd

Scope of the Act - Scope discussed - The purpose of an enactment has to be gathered from its preamble and from its general scheme as deducible from a reading of all its provisions as a whole. From the preamble of the Act it is seen that it has been enacted with a view to providing for the orderly development of Co-operative movement in accordance with directive principles of State policy enunciated in the Constitution of India. An examination of the various provisions of the Act discloses that its scheme is to permit the societies registered and to function as bodies corporate having perpetual succession.

1970 KLT 561 Pavithran v/s State of Kerala and others

Power to make Rules If a statute gives power to a Government or other authority to make rules, the rules so framed have the force of statute and are to be deemed to be incorporated as part of the statute.

AP AIR 1970 SC 245 = 1969 (2) SCC 43 = 1970 Lab IC 285 Co-operative Central Bank Ltd v/s Additional Industrial Tribunal

Societies deemed to be registered under Act This section applies even to co-operative societies registered under other Acts prior to this Act in view of Section 110 (2) (ii) which provides that such societies shall be deemed to be registered under this Act. The incorporation of Co-operative Societies under this section cannot be impeached on the ground that the State legislature is not competent to make such a law.

22 STC 460 = 34 Cut LT 745 Indal Employees' Co-operative Society Ltd v/s State of Orissa

KERALA CO-OPERATIVE SOCIETIES RULES, 1969

SRO. No. 28/69 In exercise of the powers conferred by Section 109 of the Kerala Co-operative Societies Act 1969, (21 of 1969) and in supersession of the Kerala Co-operative Societies Rules 1969 published under Notification of the Agriculture (Co-operation) Department No. 24595/C3/69/AD dated the 15th May, 1969 as SRO No. 206/69 in the Kerala Gazette Extraordinary dated the 21st May, 1969 and the Rules on the subject made under Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932) and the Travancore-Cochin Co-operative Societies Rules, 1953, the Government of Kerala hereby make the following Rules, the same having been previously published as required by sub-section (1) of the said Section, namely

RULES

CHAPTER I

Preliminary

R1. Short title and extent:- *These Rules may be called the Kerala Co-operative Societies Rules, 1969

NOTES

The following thirty seven amendments of the Rules have been incorporated in the first volume of this book.

SRO.No.510/69
SRO.No.444/70
SRO.No.33/71
SRO.No.432/72
SRO.No.225/75
SRO.No.961/75
SRO.No.90/76
SRO.No.581/76
SRO.No.790/76
SRO.No.787/80
SRO.No.16/81
SRO.No.135/82
SRO.No. 6/85
SRO.No.1736/85
SRO.No.1178/85

*These Rules, were published under Notification No. 35649/69/AD dated 14.7.1969 in Kerala Gazette Extraordinary No. 164 dated 14.7.1969.

SRO.No.79/88
SRO.No.1440/88
SRO.No.1610/88
SRO.No.1125/89
SRO.No.1485/89
SRO.No.1317/90
SRO.No.1338/90
SRO.No. 845/92
SRO.No.1304/92
SRO.No.115/94
SRO.No. 679/97
SRO.No.538/98
SRO.No.125/2000
SRO.No.380/2000
SRO.No.764/2000
SRO.No.55/2001
SRO.No.125/2001
SRO.No.846/2002
SRO.No.326/2003
SRO.No.1185/2003
SRO.No.142/2004
SRO.No.1241/2004

ACT

S2. Definitions.- In this Act, unless the context otherwise requires-

CASE LAWS

Definition Clause Interpretation of Statutes - Definition clause-Preceded by words "unless context otherwise requires - Effect - Even conclusive definitions may not be treated as conclusive.

While interpreting a definition, it has to be borne in mind that the interpretation placed on it should not only be not repugnant to the context it should also be such as would aid the achievement of the purpose which s sought to be served by the Act. A construction which would defeat or was likely to defeat the purpose of the Act has to be ignored and not accepted.

1997 (1) KLT SN 72 P 55 DB SC K.V. Muthu v/s Angamuthu Ammal

Heydon's Rule Interpretation of Statutes - Heydon's Rule - This rule is invoked where the words in the statute are ambiguous-The meaning which avoids mischief and advance the remedy is adopted.

1996 (2) KLT 42 = 1996 (4) SCC 76 DB Kalliani Amma v/s K. Devi

Definition not mechanically applied Interpretation of Statutes - Definition clause - Where the context does not permit or where it would lead to absurd or unintended result, the definition of an expression need not be mechanically applied. *In this judgment* **1990 2 SCC 134 at 140 Pushpa Devi v/s Milkhi Ram (dead) by his LRs, (1985) 156 ITR 323 SC Commissioner of Income tax v/s J.H. Gotla** *and* **(1968) 68 ILR 244 SC Vide Kanniyan v/s Income tax Officer** *are relied on.* **1994 (1) KLT 992 SC DB State of Kerala v/s Malayala Manorama**

ACT

(a) "apex society" means a society have the whole of the State as its area of operation and having as its members only other societies with similar objects and declared as such by the Registrar;

(b) "bye-laws" means the registered bye-laws of a co-operative society for the time being in force;

CASE LAWS

Approval by the Registrar Unless approved by the Registrar, do not become effective and therefore election held without approval of bye-laws would be invalid. Registrar of Co-operative Societies stated that amendment to the relevant bye-laws was approved by the Central Registrar. Bye-law further amended and the amended bye-law again certified by the Registrar. Hence Registrar directed to conduct election in accordance with relevant Act and Rules applicable to society.
1997 (1) SCC 356 Goa State Co-operative Bank Ltd v/s Pedne Taluk Prathamic Shikshak Pat Sanusta

Conflict between Act and Bye-laws Conflict between bye-laws of Co-operative Society and an Act of Parliament. Held that the Act would prevail.
1995 Supp (1) SCC 533 Burmashell Co-operative Housing Society Ltd v/s CIT

Force of law The bye laws have no force of law and, at any rate, it cannot override the provisions of the Act or Rules.
1994 (2) KLT 516 Babu v/s Joint Registrar

Nature and scope Nature and scope of the Bye-laws of the Co-operative Society - The bye-laws of the Co-operative Society are in the nature of articles of association of a company incorporated under the Companies Act binding between persons affected by them; though not having the force of a statute.
1990 (1) KLT 530 = ILR 1990 (3) Ker1064 = 1990 (1) KLJ 477 Janardhanan v/s Joint Registrar

Bye-laws and Act Bye-laws of the Society cannot override the provisions of the Act and the Rules.
(M.P. Co-operative. Societies Act, 1960, Sections 7, 64, 49 and 49 - B & M.P.

Co-operative. Societies Rules, Rules 41 and 43)

1984 CTJ 169

Reading the bye-laws The provisions of the bye-laws have to be read in consonance with the provisions of the statute.

(Punjab Co-operative. Societies Act, 1961 Section 26 (1-B) and Bye-law 33)

1984 CTJ 10

Bye Laws and force of law The bye-laws that are contemplated by the Act can be merely those which govern the internal management, business or administration of a society. The bye-laws of the society framed in compliance with the provisions of the Act cannot be held to have force of law.

AIR 1970 SC 245 = 1969 (2) SCC 43 = 1970 Lab IC 285 Co-operative Central Banl Ltd v/s Additional. Industrial Tribunal, A.P.

Bye Laws and force of law Bye-laws framed under - The Bye-laws do not possess the characteristics of Statutory Rules which have the force of law.

(Bengal Co-operative Societies Rules - Rule 12)

1975 CLR HC Cal 48 Barjahan Khan v/s 24 Pargana Southern Co-operative Bank

Bye-law has the status of Contract Bye-law has no statutory force but only has status of only contract.

(Tamil Nadu Co-operative Societies Act (53 of 1961), Section 9)

86 Mad LW 756 = 1973 (2) Mad LJ 361

Director challenging the validity of bye-laws Bye-laws under passed by Co-operative Society - Director bound by its resolutions - Can challenge the validity of bye-laws.

(Rule 8, Punjab Co-operative Societies Rules, 1963)

ILR 1971 (2) Pun 498

Force of law Bye-laws have no force of law.

(Travancore-Cochin Co-operative Societies Act (10 of 1952), Section 96 (2) (d))

1970 KLJ 382

Force of law The bye-laws that are contemplated by the Act can be merely those which govern the internal management, business or administration of a society. The bye-laws of the society framed in compliance with the provisions of the Act cannot be held to have force of law.

(Andhra Pradesh Co-operative. Societies Act, 1964, Bye-laws of Co-operative Societies framed in pursuance of provisions of the Act)

AIR 1970 SC 245 AP = 1969 (2) SCC 43 = 1970 Lab IC 285 = 1970 (1) Mad LJ SC 68 = 1970 1 Andh WR SC 68 Co-operative Central Bank Ltd v/s Additional Industrial Tribunal

Construction of the house Where the bye-law provided for the commencement of construction of the house within a specified time after receiving the loan, the

allotment is liable to be cancelled on default.

1968 (1) MLJ 300 Salem Fair Lands Co-operative House Building Society Ltd v/s Sugumaleelavathy Ammal

Bye-law if other-wise invalid A bye-law cannot take effect until it is registered, but if is other-wise invalid, registration of it will not make it valid.

(Maharashtra Co-operative Societies Act (24 of 1961), Sections 152 (4), 13 and 9 (1))

AIR 1967 Bom 7 = ILR 1966 Bom 91 = 68 Bom LR 176 = 1966 Mah LJ 514

Bye-laws are binding on the members The rules and bye-laws of an Association are binding on the members and so long as they are in force the members are bound to act in accordance there with.

(Madras Co-operative Societies Act (6 of 1932) - Preamble)

AIR 1954 Mad 348 = 1952 Mad LJ 584 = 1953 Mad WN 674 = 66 Mad LW 905

ACT

(c) "circle co-operative union" means a circle co-operative union constituted under section 88;

(d) [*****"central society"*** means a society having jurisdiction over one or more Revenue Districts but not the whole of the State as its area of operation, and having as its members only other societies and declared as such by the Registrar or the Government.]

(e) "committee" means the governing body of a co-operative society by whatever name called, to which the management of the affairs of the society is entrusted.

[*****(ea) "Co-operative Arbitration Court"*** means a court constituted under Section 70A.]

[#***(eb) "Consortium Lending Scheme"*** means the Consortium lending Scheme framed under Section 57C;

(ec) "Co-operative Development and Welfare Fund" means the Co-operative Development and Welfare Fund established under Section 57A;

(ed) "Co-operative Service Examination Board" means the Co-operative Service Examination Board constituted under Section 80B;]

(f) "co-operative society" or "society" means a co-operative society registered or deemed to be registered under this Act;

(g) "Co-operative society with limited liability" means a society in which

*Substituted by Act 19 of 1987
**Inserted by Act 15 of 1997
Inserted by Act 1 of 2000

the liability of its members for the debts of the society in the event of its being wound up is limited by its bye-laws-

(i) to the amount, if any, unpaid on the shares respectively, held by them; or

(ii) to such amount as they may, respectively, undertake to contribute to the assets of the society;

(h) "co-operative society with unlimited liability" means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society;

[****(ha) "Deposit Guarantee Scheme"*** means the Deposit Guarantee Scheme framed under Section 57B;

(hb) "Director of Co-operative Audit" means the Director of Co-operative Audit appointed under sub-section (1) of Section 63 and includes any officer on whom all or any of the powers of the Director of Co-operative Audit under this Act are conferred;]

(i) "dispute" means any matter touching the business, constitution, establishments or management of a society capable of being the subject of litigation and includes a claim in respect of any sum payable to or by a society, whether such claim be admitted or not;

CASE LAWS

Dispute Buildings (Lease and Rent Control) Act, 1965 (Kerala) - Section 11 (3) - For filing an applicationfor evicting of the premises occupied by Multi-State Co-operative Society no notice under Section 115 of the Multi-State Co-operative Societies Act, 2002 is required - "Touching of the business of the Society"- meaning of. *In this judgment* **2000 (4) SCC 91, AIR 2004 SC 5147, 1999 (3) KLT 231 SC = 1999 (7) SCC 39, 1987 (2) KLT 817, 1999 (3) KLT 487 SC = 1999 (8) SCC 74, 1977 KLT 587 FB, AIR 1976 SC 869, AIR 1951 SC 115, 1979 (4) SCC 214, AIR 1989 SC 1320, AIR 1972 SC 1893, ILR 1978 (2) Ker 143** *and* **1985 KLT 384 FB** *are relied on.*

2005 (2) KLT 191 DB All India Handloom Fabrics Marketing Co-operative Society Ltd v/s Mathew

Interse seniority Secs. 69, 2 (i) - Dispute regarding interse seniority-Power of the Registrar to decide the dispute-Held-Dispute regarding interse seniority between the employees of a society is a dispute within the ambit of Sec.2(i) and 69 of the Act-Hence Registrar has got power to adjudicate the issue.

I am in respectful agreement with the observations made by the learned single

*Inserted by Act 1 of 2000

Judge in 1975 KLT 460 to the effect that the dispute regarding interse seniority between the employees of the society is a dispute coming within the ambit of Sec. 2(i) of the Co-operative societies Act and under Sec.69 of the Co-operative societies Act the Registrar has got jurisdiction to adjudicate the issue. Therefore, the contention raised by the petitioners that the dispute regarding inter se seniority of the employees is not a dispute amenable to Sec.69 of the Co-operative Societies Act, is not sustainable.

2001 (2) KLJ 42 Ajitha and others v/s State of Kerala and others

Disciplinary proceedings S.69 - Dispute concerning disciplinary proceedings cannot be characterised as a matter touching the business, constitution, establishment or management of the society under S.2(i) so as to bring it within the ambit of S.69- Joint Registrar has no power to entertain an arbitration case against initiation of disciplinary proceedings - Power to cancel the resolution under Co-operative Societies Rules, 1969, (Kerala), Rr.176 & 198(4).

The jurisdiction of the Registrar under S.69 of the Act is co-terminous with that of the civil court. The general rule is that a civil court will not specifically enforce a contract of a personal service. We are of the view that the second respondent was not justified in invoking the power under S.69 of the Act, so as to challenge the resolution passed by the Bank provisionally resolving to terminate the service of the second respndent. Further Joint Registrar was not justified in entertaining the Arbitration Case, at a stage when the Sub Committee has issued a show cause notice to the second respondent on the basis of the enquiry report. *In this judgment* **1978 KLT 249 FB, 1973 KLT 525, 1982 KLJ 124** *and* **1975 KLT 861** *are followed and* **1996 (2) KLT 66, 1996 (1) KLT 100** *and* **1998 (1) KLT 60** *are referred to.*

2001 (1) KLT 99 DB Trivandrum Co-operative Urban Bank Ltd v/s Joint Registrar of Co-operative Societies

Decision to cancel a recruitment test Section 69 - A decision to cancel a recruitment test does not relate to the business of the society within the meaning of Section 69 and Joint Registrar has no jurisdiction to decide a dispute of this nature.

The process of recruitment does not come within the scope of constitution, establishment or management of a society. Since the decision to cancel a recruitment test does not relate to the business of the society within the meaning of Section 69 of the Act, the Joint Registrar has no jurisdiction to decide a dispute of this nature. *In this case* **AIR 1969 SC 1320 Deccan Merchants Co-operative Bank Ltd v/s M/s Dalichand Jugraj Jain & others** *is relied on.*

1998 (2) KLT 337 Raghu Nandanan v/s Joint Registrar

Punishment imposed by the Society on its employee Section 69 - Punishment imposed by the Society on its employee cannot be considered to be a

dispute coming within the purview of Section 69

Rule 198 envisages disciplinary action against any member of the establishment of a co-operative society Rule 198 (1) prescribes the punishment that can be imposed against an erring member of the establishment of a co-operative society. Sub-rule (3) mentions the authority competent to impose various penalties on different categories of employees. Sub-rule (4) provides that an appeal shall lie against every order imposing a penalty to the competent appellate authority mentioned thereunder. As Rule 198 specifically indicates the remedy available to a member of the establishment of a co-operative society pursuant to disciplinary action, the course available to him is to have availed of its. Certainly he cannot take up a position invoking Section 69 of the Act.

1995 (1) KLT 772 = 1995 (1) KLJ 728 = ILR 1995 (3) Ker 392 Mathew v/s Registrar of Co-operative Societies

Punishment imposed on an officer after due enquiry Section. 69 - Punishment imposed on an officer after due enquiry, will not be a dispute within the meaning of the Section. If a dispute arise between the society or its committee and any past committee, any officers, agent, employee or any past officers, past agent or past employee, or the nominee, deceased agent or deceased employee of the society, it shall be referred to the Registrar for decision notwithstanding anything contained in any law for the time being in force. Subsection (2) enumerates certain disputes as deemed disputes. From a reading of Section 69, it is not possible to hold that punishment imposed by the society on its employee can be considered to be a dispute coming within the purview of this Section.

1995 (1) KLT 772 = 1995 (1) KLJ 728 = ILR 1995 (3) Ker 392 DB K.T. Mathew v/s The Registrar of Co-operative Societies and another

A claim made against a beneficiary of the misappropriation Section. 69 : A claim made against a person merely as beneficiary of the misappropriation committed by the employee does not fall within Section 69 of the Act.

1991 (1) KLT 7 Nalunnakkal Service Co-operative Bank Ltd v/s P.V. John

Conditions of service of an employee Sections. 82 & 87 : Dispute relating to conditions of service of an employee of society - Assistant Registrar passed a composite order deciding the dispute on merit as well as the objections relating to his jurisdiction. Proper remedy is to file an appeal under Section 82 of the Act. No revision is maintainable under Section 87 of the Act. State Government had no jurisdiction to entertain the Revision against the order of the Assistant Registrar.

1990 (2) KLT 306 = 1990 (2) KLJ 93 SC Raghavan v/s The Secretary to Government

Breach of contract of service In the case of breach of contract of service Assistant Registrar can grant monetary benefits to the employee.

1986 KLT 812 Sankara Warriyar v/s President, North Malabar District C.S.M. Society

Agreement for lease of shop building Sec.69 (1) (f) and Section 100. A suit for specific performance of an agreement for lease of shop building against a society engaged in Banking business is not barred. The jurisdiction of all Civil or Revenue courts are barred under Section 100 of the Act in respect of any matter for which provision is made in the Act. The Plaintiff is neither a member of the society nor is he grantee of a loan by the Society. Construction of buildings and letting out the same to tenants do not fall under any of the objects mentioned in bye-law 2 which enumerates the objects of the Society. The Society is engaged in the principal business of banking. On a perusal of the bye-laws, it is clear that construction of buildings and letting out the same to tenants do not form part of the business of the Society. The Plaintiff is entitled to a decree for specific performance of the agreement for the grant of a lease of a shop-room, in terms of the agreement.

1985 (2) ILR 9 = 1985 KLJ 442 = AIR 1985 Ker 189 = 1985 KLT 384 = 1985 KLN 316 FB Meeran Unni Hameedu v/s The Kottayam District Bank

Election dispute Registrar, cannot entertain any election dispute till the declaration of results.

(West Bengal Co-operative Societies Act, 1961, Section 64)

1985 CTJ 333

Arbitrator and dispute Arbitrator can decide whether the dispute is one coming under the definition of dispute.

1985 KLT 255 Sankaran Narayanan v/s Joint Registrar of Co-operative Societies

Issue of loan Suit against a Society - Society dealing with the business of advancing loans and giving credit facilities - Suit alleging that no loan was taken - Suit is with regard to the business of the Society - Notice under Section 79 is not must-Notice not given - Suit liable to be dismissed.

(Punjab Co-operative Societies Act, 1961, Sections 55, 79 and 82)

1984 (2) AI LLR 151

Person becoming member after obtaining loan Dispute regarding the business of the Society - Person becoming member on a date after obtaining certain facilities of loan from the Society - Such a dispute cannot be looked into under the Co-operative Societies Act - Transaction entered into when the person concerned was not a member-Dispute must be for the claim which should arise through a transacting entered into by a member of the Society-Dispute with regard to a period prior to becoming a member-Not entertainable.

(Maharashtra Co-operative Societies Act, 1965, Section 91)

1984 Co-op LR 7

Tresspass of land Member of Society entering upon land of Society as a

trespasser - Civil suit competent - Arbitration proceedings not maintainable.
(Punjab Co-operative Societies Act, 1961, Sections 55,56 and 82 (1) (c))
1983 (1) AI LLR 508

Share, nomination and property The relationship of the Society and member subsists only in respect of shares in and the property of the Society. Therefore, a nomination permitted only in respect of the share in and the property of the Society. The Society is concerned only with the shares held by a member and the land given by it to a member and not with the structure that a member may put up. The member's interest in the structure cannot be a share in interest in the Society.
(Maharashtra Co-operative Societies Act (24 of 1961), Section 30)
AIR 1982 Bom 482

Possession and eviction of flat If the by-laws contemplate that ordinarily the flat should be in possession of its member and if the Society is a party to the proceedings for eviction against such non-tenant for the sake of making the said flat available for the occupation of its member, the Society cannot be said to have no cause of action against the actual occupant of the flat.
(Maharashtra Co-operative Societies Act (24 of 1961) Section 91)
AIR 1982 Bom 243 = 1982 Mah LJ 153

Dismissal from service The dispute regarding dismissal from service squarely falls within the ambit of industrial jurisdiction. Industrial Court, unlike an ordinary civil court, has power to order reinstatement and to pass consequential order. Such powers are normally lacking in the Registrar of Co-operative Societies.
1982 KLJ 124 Sankaran Warriyer v/s North Malabar Co-operative Supply and Marketing Society

Alteration of conditions of service The meaning given to the expression 'touching the business of the Society' makes it very doubtful whether a dispute in respect of alteration of conditions of service can be held to be covered by this expression. Since the word 'business' is equated with the actual trading or commercial other similar business activity of the Society, and since it has been held that it would be difficult to subscribe to the proposition that whatever the society does or is necessarily required to do for the purpose of carrying out its objects, such as laying down the conditions of service of its employees, can be said to be a part of its business, it would appear that a dispute relating to conditions of service of the workmen employed by the Society cannot be held to be a dispute touching the business of the Society.
(U.P. Co-operative Societies Act, 1966, Section 70)
AIR 1982 SC 120 = 1981 (4) SCC 481 = 1982 All LJ 50

Discharged employees Employees discharged from service of Co-operative Society - Registrar has no power to adjudicate - It can no longer be doubted that matters which falls squarely within the competence of the authorities under the Industrial Disputes

Act are outside the jurisdiction of authorities under the Co-operative Societies Act.

1982 KLT SN 43

Acts touching the business and acts in the course of business Suit against Co-operative Society for balance due on sale price of tyres and tubes - Co-operative Society carrying on the business of Motor Transport carrying passengers - Neither the act of purchasing tyres and tubes nor of sending cheque which got dishonoured were "acts touching the business of the Society"-These could be called "acts in the course of business of the Society" but not acts touching it. These acts" in the course of business of the Society" but not acts touching it. These acts could not be called even ancillary acts to the business but merely incidental over which the Registrar had no powers to attract a notice under section 79.

(Section 79, Punjab Co-operative Societies Act, 1961)

1981 AI LLR 169

Reversion of employees Dispute before the Registrar in arbitration reference regarding reversion of employees of society whether as per its bye-laws or not - Jurisdiction of Registrar to interfere with the orders of reversion - The jurisdiction of the Registrar under Section 69 of the Act is co-terminous with that of the civil court. As far as the civil court is concerned, the normal rule is that it will not specifically enforce a contract of personnel service. One exemption to this rule is that interference will be possible when there is a violation of statutory provisions. The Bye-laws framed by the society have not got the status of statutory rules. As there was no statutory violation in these cases, neither the civil court nor the Registrar has the jurisdiction to interfere with the orders of reversion challenged in the dispute pending arbitration. This being the position, the inclusion of the word "establishments" in Section 2 (i) of the Act defining dispute or the word "employee" in Section 69 (c) of the Act will not improve matters.

1981 KLT SN 99 Sankara Wariyar v/s President North Malabar District Co-operative Society Ltd

Non-payment of rent The non-payment of rent and the non-compliance with notice asking the Co-operative Society to vacate and delivery the possession of the shops is not an 'not' touching the business of the Society. Consequently, no notice as contemplated by Section 143 is necessary for filling suit for eviction against Society on ground of failure to pay rent.

(Rajasthan Co-operative Societies Act, 1965, Section 143)

AIR 1981 Raj 41 = 1980 Raj LW 632

Suo moto action by Registrar Not competent-Dispute-Existence of Essential ingredients of a dispute would be claimed by one party and denial thereof by other party-Only a party to dispute desiring determination who can apply to Registrar stating

the substance of the dispute.
(Punjab Co-operative Societies Rules, 1963 - Rules 51 and 55 and Section 55 Punjab Co-operative Societies Act 1961)
1979 AI LLR 467

Non-existent Co-operative Society Effect of contract by non-existent Co-operative Society.
(Gujarat Co-operative Societies Act, (10 of 1962), Section 37)
AIR 1979 Guj 134

Taking the building on rent It is no part of the business of the Society to take the building on rent, although for the purpose of business, the society may have incidentally to take on lease premises. But in entering into a transaction of lease for the said purpose of the society is not transacting business or entering into a business transaction with the petitioner. Hence it is not a claim covered under Section 69.
ILR 1978 (2) 143 Varkey v/s Director of Industries

Title to the immovable property A dispute in regard to the title to the immovable property will not come within the scope of the definition.
1978 KLT 836 Ponnuswamy v/s Nambeesan

Suit against Society by a surety A person stood surety for the Society - Suit against Society could, therefore, not go to the Registrar. Civil Court alone has jurisdiction.
(Madhya Pradesh Co-operative Societies Act, 1961, Section 64 (1)) *In this judgment*
AIR 1962 Bom 162 FB Fakkhundali Nannhay v/s V.B. Potdor *is referred to.*
1978 Jab LJ 340 = 1978 MPLJ 271 Co-operative Central Bank Ltd v/s Additional Industrial Tribunal, Andhra Pradesh, Hyderabad

Abuse of position Dispute alleging abuse of position by the Secretary of a bank in advancing loans to societies whether can be referred to the Registrar for arbitration under Section. 68 of the Orissa Co-operative Societies Act 1962 - Matter to be decided by the Registrar.
1976 CLJ 223 SC

Claim for damages is a dispute A claim by a society for damages against a contractor who was entrusted with the work of construction of a godown for the society is dispute.
1976 KLT 137 Sekharan v/s State of Kerala

Letting out house Normal Business - Letting out house not being normal business of the Society.
(Madhya Pradesh Co-operative Societies Act, 1961, Section 64)
1976 Co-op LJ 119 MP

Election When a writ petition is maintainable in election - Where the question raised is fundamental and is about the jurisdiction of the Returning Officer to fix a date

for poll and conduct election in violation of Rule 35 (3) (b) the High Court can interfere under Art. 226 of the Constitution.

1976 KLT 40 = ILR 1976 (1) Ker 95 Devassy v/s Assistant Registrar of Co-operative Societies

Retrenchment Dispute regarding retrenchment is an industrial dispute.

(Tamil Nadu Co-operative Societies Act (53 of 1961), Section 18)

1975 Lab IC 1008 Mad

Dismissal of employee of Society Arbitrator has no power to entertain dispute. Proper forum is industrial court.

1975 KLT 861 = ILR 1975 (1) Ker 364 Sankaran v/s Deputy Registrar of Co-operative Societies

Jurisdiction of Registrar Sections 2 (i), 69 and 80 - The Registrar can function only within the limits prescribed under the Act. But within those limits he can act uninhibited provided the dispute is capable of being resolved without deviating from the provisions of the Act, the rules and the bye-laws. If the dispute relates to a subject-matter specified under the Act and if it can be resolved in accordance with the provisions of the law or contract, the Registrar has the necessary jurisdiction and the provisions of the Act would prevail over those of the Industrial Dispute Act.

1975 KLT 460

The rights of members of the committee Dispute in regard to the right of members of the committee to take part in the management of the society - Dispute is one touching the business of the society - Scope of Section 61 is entirely different from that of Rule 24 (3) - Even though proceedings have been initiated under rule 24 (3) the Registrar would not be precluded from bearing the dispute under section 61 - Interlocutory Orders-Can be passed at any stage after the application is filed under section 61.

(Andhra Pradesh Co-operative Societies Act (1964) Section 61 (2) and 62(4))

1974 Coop LR AP 350 = W.P. No. 2819 of 1973 V. Raghava Reddy and others v/s The District Collector Warangal and others

The employment and dismissal of staff The employment and dismissal of staff cannot be said to be part of its business.

(Bombay Co-operative Societies Act, 1925, Section 54 (as extended to Delhi)

AIR 1974 Del 132 = 1973 Rajdhani LR 247 = ILR 1973 1 Del 564 = 1974 Co-op LJ 155 = 1974 Co-op LR 295

Member allotted a flat as tenant Rights of Member - Member allotted a flat as tenant - It cannot be attached and sold in execution of.

(Maharashtra Co-operative Societies Act (24 of 1961 Section 29 (2))

AIR 1974 Bom 87 = 1973 (9) Co-op LJ 202 = 75 Bom LR 649 = ILR 1975 Bom 1122

Appointment of an employee Dispute regarding the appointment of an employee - Power of the Registrar discussed - The Registrar has jurisdiction to

decide whether the dispute is one coming under the definition of "dispute". Whether the Registrar has jurisdiction to decide the dispute will depend on the question whether it is a dispute coming under the Act.

1974 KLT 196 Bhaskaran v/s Assistant Registrar of Co-operative Societies

Surety for the loan and bank Dispute between surety for the loan and bank is covered by Section 61 (1) (d).

(Andhra Pradesh Co-operative Societies Act, 1964 Section 61)

1974 Co-op LJ 123 AP

Dismissal of worker Co-operative Societies Act, 1969 (Kerala) - Section 2 (1) read with Section 69 - Dispute between the Society and worker regarding his dismissal. The powers of the Labour Court, functioning under the Industrial Disputes Act, 1947,are unaffected by the powers of the Registrar under Section 69 of the Act. The dispute that was resolved by the Labour Court could not have been dealt to with by the Registrar. He was not competent to deal with such question. *In this judgment* **AIR 1970 SC 245 Co-operative Central Bank limited and others etc v/s Additional Industrial Tribunal, AP and others, AIR 1949 PC 129 The Labour Relations Board of Saskatchewan v/s Joh, East Iron Works Ltd, 1963 KLT 705 Malabar Co-operative Central Bank Ltd Kozhikode v/s State of Kerala, 1964 KLJ 175 Kerala State Handloom weavers Co-operative Society Ltd v/s State of Kerala and others** *and* **AIR 1969 SC 1320 Deccan Merchants Co-operative Bank Ltd v/s M/s Dalichand Jugraj Jain and others** *are relied on and* **AIR 1943 Bom 341 G. I. P. Railway Employees Co-operative Bank Ltd v/s Bhikhaji Merwanji Employe,AIR 1957 Bom 36 The Major Sahahari Bank Ltd v/s W. N. Majumdar and another, AIR 1958 Cal 373 M/s Co-operative Milk Societies Union Ltd v/s State of West Bengal and others, 1968 LLJ 772 Workmen's Co-operative Industrial Home Ltd v/s First Industrial Tribunal West Bengal and others** *and* **AIR 1961 Mad 217 South Arcot Co-operative Motor Transport Society Ltd Cuddalore v/s Syed Batcha and others** *are referred to.*

ILR 1973 (1) Ker 542 = 1973 KLT 523 DB Kalloor Vadakkummury Service Co-operative Society Ltd v/s Assistant Registrar, Circle office of Co-operative Societies, Munkundapuram and others

Seniority between employees Registrar is competent to decide it.

1973 KLT 460

Election dispute Election dispute when can be raised - The dispute in connection with the election can be raised only after the election. The Deputy Registrar has no jurisdiction under this section on the eve of the election to deal with an application for stay based on certain dispute pertaining to election and pass an order staying election.

1973 KLT 213 Narayanan Nambiar v/s Deputy Registrar of Co-operative Societies

Non-member being a necessary party Non-member being not a party in proceedings under Section 54 - Non-member being adversely affected by award was a necessary party - Award in absence of such non-member, hold be ultra vires Section 54 and such null and void.

(Bombay Co-operative Societies Act, 1925 Section 54 (1) (a))

ILR 1973 Guj 74

Co-operative Bank and its employees Dispute between Co-operative Bank and its employees is not a dispute in the nature of Civil litigation within the section.

(Bengal Co-operative Societies Act (21 of 1940), Section 2 (i))

1972 (1) Lab LN 328 = 1972 (76) Cal WN 562 = 42 FJR 120

Right of Representation Right of representation by a legal practitioner, except when a person is charged of a criminal offence, is not a fundamental right.

(Madhya Pradesh Co-operative Societies Act, 1961. Section 67 (2))

AIR 1971 MP 86 = 1971 MP WR 997 = 190 MPLJ 110

Service of employees Since the word 'business' is equated with the actual trading or commercial or other similar business activity of the society, and since it has been held that it would be difficult to subscribe to the proposition that whatever the society does or is necessarily required to do for the purpose of carrying out its objects, such a laying down the conditions of service of its employees, can be said to be a part of its business, it would appear that a dispute relating to conditions of service of the workmen employed by the society cannot be held to be a disputed touching the business of the society.

(Section 61 of Andhra Pradesh Co-operative Societies Act (7 of 1964) and Industrial Disputes Act, 1947)

AIR 1970 SC 245 = 1970 (1) Mad LJ SC 68 = 1970 (1) Andh WR SC 68 = 40 Company Cases 206 = 1970 Lab IC 285 = 1969 (2) SCC 43 Co-operative Central Bank Ltd v/s Additional. Industrial Tribunal, A.P.

Recovery of dues from Society Liability to pay such dues personally undertaken by office-bearers - Suit against office-bearers is not barred.

(Rajasthan Co-operative Societies Act, (13 of 1965), Section 75 (1) (e))

ILR 1970 20 Raj 105

The words Business and Touching It is clear that the word 'business' in this context does not mean affairs of a society because election of office-bearers, conduct of general meetings and management of a society would be treated as affairs of a society. In this sub-section the word 'business' has been used in a narrower sense and if means the actual trading or commercial or other similar business activity of the society which the society is authorised to enter into under the Act and the Rules and its bye-laws.

While we agree that the nature of business which a society does can be ascertained from the objects of the society, it is difficult to subscribe to the proposition

that whatever the society does or is necessarily required to do for the purpose of carrying out its objects can be said to be part of its business We, however, agree that the word "touching" is very wide and would include any matter which relates to or concerns the business of a society, but we are doubtful whether the word 'affects' should also be used in defining the scope of the word 'touching. - Section 91 (1) of the Maharashtra Co-operative Societies Act.

AIR 1969 SC 1320 Deccan Merchants Co-operative Bank Ltd v/s Dulichand Jugraj Jain

Member as a stranger If a member entered into a transaction with the society not as a member but as a stranger, then he must be covered, if at all, by the provisions of Section 91 (1) or (c).

(Maharashtra Co-operative Societies Act (24 of 1961) Section 91 (1))

AIR 1969 SC 1320 = 1969 (5) Co-op LJ 135 = 72 Bom LR 418 = 1970 Mah LJ 301

Touching the business Travancore Cochin Co-operative Societies Act, 1951 - Section 60 - Touching the business of the Society – meaning of – Moral and Social advancement of members of the society. It is difficult to hold that starting and concluding a school was also one of the purposes of the Co-operative Society. *In this judgment* **1962 KLT 400 Coir Industrial Co-operative Society Chingoli, v/s Govindan** *is relied on.*

ILR 1967 (2) Ker 642 = 1967 KLJ 842 Multi – purpose Co-operative Society Ltd v/s Narayanan Nair and another

Hearing of disputes Power to hear disputes - Notice to affected party necessary.

(Bihar and Orissa Co-operative Societies Act, 1935, Section 48)

AIR 1967 Pat 175

Indicental questions Indicental question as to validity of bye-law in question can also be gone into Registrar.

(Maharashtra Co-operative Societies Act (24 of 1961), Section 91)

AIR 1967 Bom 7 = 1966 Mah LJ 514 = 68 Bom LR 176 = ILR 1966 Bom 491

Rejection of nomination Power of Registrar to entertain revision does not extend to dispute relating to rejection of nomination before date of declaration of results.

(Madras Co-operative Societies Act (53 of 1961), Section 97)

AIR 1967 Mad 182 = 1966 (2) MLJ 415 = 79 Mad LW 713

Dispute and Ultra Vires If the Legislature though that a rule providing for reference to arbitration of a dispute between members or past members of the Society or persons claiming through a member or past member or between a member or past member or persons so claiming and the committee or any Officer was necessary for carrying out the purposes of the Act, a rule which provides for

to reference to arbitration of such a dispute cannot be said to the extraneous the purposes of the Act and cannot be struck down as ultra vires.
(Co-operative Societies Act, 1912, Section 43 (1) and (2) (1))
AIR 1966 All 12 = ILR (1965) 2 All 742 = 1965 All LJ 831

The sale of the produce The sale of the produce belonging to the members of the Society is part of the business of the society and as such is business of the Society.
(Madras Co-operative Societies Act (6 of 1932), Section. 51)
AIR 1965 SC 621 = 1965 (2) Mad LJ SC 111 = 1965 (2) An WR SC 11 = 1965 (2) SCJ 627

Validity of election Dispute regarding the validity of election of Director of a Co-operative Society is one touching the business of the society. The Registrar has jurisdiction to decide the dispute.
1965 KLT 447 = ILR 1965 (1) Ker 666 Vasu Pillai v/s Registrar of Co-operative Societies

Cancellation of a resolution Co-operative Societies Act, 1932 (Madras) - Section 51 - Suit for cancellation of a resolution as being ultra vires the powers of general body – Not barred.
ILR 1965 (2) Ker 21 = 1965 KLT 740 DB Sankaranarayanan and others v/s Kunhikrishnan and others

Rent of a godown Co-operative Societies Act, 1932 (Madras) - Section 51 - Suit for rent of a godown let to the defendant Co-operative Society. Plaintiff a member of the Co-operative Society. The dispute has nothing to do with his membership of the Society. It is certainly not a dispute between the Society and a member qua member – Section 51 no bar to suit. *In this judgment* **AIR 1952 Bom 445 Shyam Co-operative Housing Society Ltd v/s R.B. Advani** *is relied on and* **AIR 1961 MP 40 Mishrimal v/s District Co-operative Growers Association** *is not followed.*
ILR 1964 (1) Ker 83 DB Mammu Keyi v/s Thirurangadi Co-operative Rural Bank Ltd

Touching the business Co-operative Societies Act, 1932 (Madras) - Section 51 & Industrial Disputes (Amendment & Miscellaneous Provision) Act (X XXVI of 1956) Section 31 (1) - In order to enable Section 51 of the Madras Co-operative Societies Act, 1932, to exclude the provisions of Industrial Disputes Act, 1947, on the basis of Section 31 (1) of the industrial Disputes (Amendment & Miscellaneous Provisions) Act 1956, the dispute concerned must be a dispute "touching the business" of a Society. It is not possible to hold that such is the case. *In this judgment* **AIR 1958 Cal 373 Co-operative Mill Societies Union Ltd v/s State of West Bengal** *and* **AIR 1961 Madras 217 South Arcot Co-operative Motor Transport Society Ltd v/s Syed Batcha and others** *are relied on.*

ILR 1964 (1) Ker 31 DB Malabar Co-operative Central Bank Ltd v/s State of Kerala and others

Application for registration No dispute about the membership of a person joining the application for registration of the Society could be raised after the registration of the Society.

(Co-operative Societies Act (Central Act 2 of 1912), Sections 2 (c), 43 (2) (d), Bye-laws 4 and 5 of Jansevak Co-operative Housing Society Ltd., Kanpur))

1962 All LJ 652

Touching the business Travancore Cochin Co-operative Societies Act, 1951 - Section 60 - Touching the business of the Society – connotation of. *In this judgment* **AIR 1954 Mad 103 M.S. Madhava Rao v/s D.V.K. Surya Rao** *is relied on.*

ILR 1962 (1) Ker 238 = 1962 KLJ 454 = 1962 KLT 400 Coir Industrial Co-operative Society v/s Govindan

Notice A notice issued under Section 70 does not become invalid by reason of the difference between the names of the plaintiff's agent in his notice and the plaint.

(Bombay Co-operative Societies Act, 1925 Section 70)

AIR 1962 Mys 48 = ILR 1961 Mys 13 = 39 Mys LJ 982

Claim against Co-operative Society Society not impleaded - Members of Managing Committee impleaded - Effect.

(Travancore Co-operative Societies Act (10 of 1952), Section 24)

AIR 1961 Ker 258

The liability of a Co-operative Society and its members The liability of a Co-operative Society duly registered cannot be equated to the liability of the members of its managing committee. Nor are the members of the managing committee competent to represent the Co-operative Society.

AIR 1961 Ker 258 = 1960 KLT 1288 = 1960 KLJ 1442

Void transactions A clear distinction between collections made by an agent as a result of transactions forbidden by law or opposed to public policy or morality and collections made by him in the course of transactions which are void for other reasons.

(Madras Co-operative Societies Act (6 of 1932), Sections (1))

1957 And LT 607 = 1957 (2) And WR 226

Dispute and membership Where a person against whom the claim was made, was not a member of the Society at the time of the transaction in respect of which the dispute has subsequently arisen the dispute does not fall within Section 51 even though at the time of the dispute he was a member of the Society.

(Madras Co-operative Societies Act (6 of 1932), Section 51)

1956 (1) Mad LJ 36

Insurance Insurance is part of business of Society - Directly attracted.

(Madras Co-operative Societies Act (6 of 1932), Section 51)

AIR 1955 Mad 694 = ILR 1956 Mad 547 = 1955 (2) Mad LJ 63 = 68 Mad LW 64

Election Whether a dispute relating to the election of Directors of the Society concerned in that case was a dispute touching the business of the Society.

Affairs of the society The expressions "affairs of the society" and "business of the society" were synonymous. *In this judgment* **AIR 1943 Bom 341 Bhikaji Merwanji Karanjia** *is approved.*

AIR 1954 Mad 103 FB M.S. Madhava Rao v/s D.V. K. Surya Rao

Advocates It is for the Courts or for tribunals to determine as a matter of procedure as to how parties should be represented and how they should present their case to the Court or the tribunal, and if a rule in laying down a procedure provides that a party shall be heard in person and not by advocate or lawyer, it is nothing more than a rule of procedure.

(Bombay Co-operative Societies Act, 1925, Sections 71 (2) (4) and Bombay Co-operative Societies Rules, Rule 36).

AIR 1952 Bom 296 = ILR 1952 Bom 766 = 54 Bom LR 285

The functions of the Registrar The functions of the Registrar though quasi-judicial it is not necessary that all the procedure generally expected to be followed in a Court of law, should be observed by him in deciding disputes. The decision of the time for submission of the explanations, the place which the explanation should be submitted, are all matters of detail left to the bonafide discretion of the Registrar.

68 LW 643 = AIR 1951 Mad 1003 = 1951 (2) MLJ 96 Ramayya v/s Madras State

Money business Business is not confined to money business.

(Co-operative Societies Act, 1912, Section 43)

AIR 1925 All 356

ACT

[****(ia) District Co-operative Bank*"** means a Central Society the principal object of which is to raise funds to be lent to its members, with jurisdiction over one revenue district and having as its members any type of primary societies and Federal and Central Societies having headquarters in such district.]

CASE LAWS

The term "District Co-operative Bank" as amended by Ordinance No. 8/97 - Reference in the provisions to principal object is to that of District Co-operative Bank and not that of primary societies.

1998 (1) KLJ 50 K.M. Lukman v/s Deputy Registrar

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* Substituted by Act 3 of 2002

ACT

[**(ib) "Federal Co-operative Society"** means a society having more than one district as its area of operation and having individuals and other co-operative societies as its members;]

(j) 'financing bank' means a co-operative society having as its members only other co-operative societies and the main object of which is to raise money and lend the sum to its members;

(k) 'general body meeting' means a meeting of the members who are entitled to vote in the affairs of the society;

(l) 'Member' means a person joining in the application for the registration of a co-operative society or a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws and includes a nominal or associate member;

CASE LAWS

Payment of share money is an essential condition for membership - Unless share money is paid applicant does not become a member.
1990 (1) KLT 695 Krishnan Ezhuthachan v/s Assistant Registrar

ACT

(m) 'nominal or associate member' means a member who possesses only such privileges and rights of a member who is subject only to such liabilities of a member as may be specified in the bye-laws;

(n) "officer" means the President, Vice-President, Chairman, Vice-Chairman, Secretary, Manager, member of committee or Treasurer and includes a Liquidator, Administrator and any other person empowered under the rules or the bye-laws to give directions in regard to the business of a co-operative society;

CASE LAWS

Public servants For an offence under Prevention of Corruption Act and Indian Penal Code, the officers and servants of Co-operative Society are public servants.
1977 KLT 131 = ILR 1977 (1) Ker 439 FB Kochudevassy v/s State of Kerala
See also **1978 KLT 880**

Master and servant relationship In relation of a servant of the society vis-a-vis the society is a pure case of master and servant in private employment. Hence a

* Inserted by Act 1 of 2000

civil court cannot grant the relief of reinstatement.

ILR 1975 (1) Ker 364 = 1975 KLT 861 Sankaran v/s Deputy Registrar of Co-operative Societies

Food Adulteration A committee member of milk society selling adulterated curd. His liability under the Prevention of Food Adulteration Act is absolute and the question whether he is authorised to make sale as a servant or agent is irrelevant.

1965 KLT 402 State of Kerala v/s Ramakrishnan Nair

ACT

(o) "Prescribed" means prescribed by rules made under this Act;

[****(oa) "Primary Agricultural Credit Society"*** means a Service Co-operative Society, a Service Co-operative Bank, a Farmers Service Co-operative bank and a Rural Bank, the principal object of which is to undertake agricultural credit activities and having its area of operation confined to a Village, Panchayat or a Municipality.

Provided that the restriction regarding the area of operation shall not apply to Societies or Banks in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999.]

CASE LAWS

Agriculture Words & Phrases – 'Agriculture' meaning of – Fisheries held is not agriculture – Income received from fisheries held is not agricultural income – Operations and activities to maintain fish farm more or less similar to that of agriculture, but tilling the main activity of agriculture is not found in fish farming.

Income received from the fisheries is not 'agricultural income' and a such the same is not exempted from the purview of the levy of Income Tax.

1999 (1) KLT SN 18 P 17 Tamil Nadu Electricity Board v/s Maheswari Fish Seed Farm

Category of Primary Agricultural Credit Society Co-operative Societies Act (Amendment) Ordinance, 1997, 12 of 1997 (Kerala) Cl. 3 (iii) -Any primary society which does not have the object of undertaking agricultural credit activities cannot become members of the District Co-operative Bank in the category of Primary Agricultural Credit Society.

The object for which the Primary Agricultural Credit Society which includes a Service Co-operative Bank or Service Co-operative Society or a Farmers' Service Co-operative Bank or Rural Bank is constituted is specifically dealt with. Their object for which these types of societies or banks which is commonly described by the definition as the Primary Agricultural Credit Society is that it shall be undertaking agricultural credit activities. Therefore, the members of the District Co-operative Bank namely,

* Substituted by Act 1 of 2000

the Primary Agricultural Credit Society and Farmers' Service Co-operative Bank shall be having the object to undertaking agricultural credit activities. The only non agricultural society which can become a member of the District Co-operative Bank is the Urban Co-operative Bank as defined in clause 3 (iv) of the Ordinance.

1997 (2) KLT 627 = 1998 (1) KLJ 50 Lukman v/s Deputy Registrar

ACT

[**(ob) "Primary credit society"* means a society other than an apex or central society which has its principal object the raising of funds to be lent to its members.]

CASE LAWS

Primary credit co-operative society Section 28 A - Society engaged in purchasing and distributing wholesale items to its members and not with the object of raising funds to be lent to its members is not a primary credit co-operative society as defined under Section 2 (a) of the Act-There is no need for making reservation under Section 28 A.

Section 28 A of the Kerala Co-operative Societies Act provides for reservation for a member belonging to a scheduled caste and scheduled tribe in the committee of every primary credit society, every District Co-operative Bank Ltd and the Kerala State Co-operative Agricultural and Rural Development Bank, the Kerala State Co-operative Bank Ltd. Primary credit co-operative society has been defined in the Act under Section 2 (a) as a society other than an apex or central society which has its principal object the raising of funds to be lent to its members. Even though wholesale co-operative consumer store collects money from its members for the purpose of purchasing and sale of articles for wholesale, it cannot be said that the principal object of the said society is raising funds to be lent to its members which would attract the provisions of Section 28 A of the Act.

1995 (2) KLT 123 = 1995 (2) KLJ 250 = ILR 1995 (3) Ker 522 Thankamani v/s Returning Officer

ACT

[***(oc) 'Primary Co-operative Agricultural and Rural Development Bank"* means a society having its area of operation confined to a taluk and the principal object of which is to provide for long term credit for agricultural and rural development activities;

Provided that the societies in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, having more than one taluk as its area of operation shall, restrict such area of operation to the taluk where the headquarters of such society is situated, within a period of six months'.]

*Inserted by Act 29 of 1986

** Inserted by Act 1 of 2000

(p) "Registrar" means the Registrar of Co-operative Societies appointed under sub-section (1) of section 3 and includes any person on whom all or any of the powers of the Registrar under this Act are conferred;

CASE LAWS

Joint Registrar The expression Registrar includes Joint Registrar.

1985 KLT 125 Somasundaram v/s Joint Registrar

Definition of Registrar All superior officers, namely Deputy Registrar, Joint Registrar and Additional Registrar could be Registrar as defined in Section 2(p) of the Act.

AIR 1988 Ker 115 = 1987 (2) KLT 233 A & E Inspector, Assistant Registrar Office, Udumbanchola v/s Antony Varghese

ACT

(q) "rules" means the rules made under this Act;

[**(qa) "Scheduled Castes"*** means the Scheduled Tribes in relation to the State of Kerala as specified in the Constitution (Scheduled Tribes) Order, 1950;

(qb) "Scheduled Tribes" means the Scheduled Tribes in relation to the State of Kerala as specified in the Constitution (Scheduled Tribes) Order, 1950;]

(r) "State" means the State of Kerala;

[***(ra) "State Co-operative Agricultural and Rural Development Bank"*** means an apex society having only Primary Co-operative Agricultural and Rural Development Banks as its members and functioning in accordance with the provisions contained in the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984);

(rb) "State Co-operative Bank" means an apex society having only District Co-operative Bank as its members;

(rc) "State Co-operative Election Commission" means the State Co-operative Election Commission constituted under Section 28B;]

(s) "State Co-operative Union" means the State Co-operative Union established under section 89;

(t) "Tribunal" means the Tribunal constituted under section 81;

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*Inserted by Act 29 of 1986

**Inserted by Act 1 of 2000

[**(ta) "Urban Co-operative Bank"* means a Society registered under this Act having its area of operation in the urban areas and which undertakes banking business.

(tb) "Vigilance Officer" means the Vigilance Officer appointed under Section 68A;]

(u) "Year" means the period commencing on the [**first day of April of any year and ending with 31st of March] of the succeeding year or in the case of any registered society or class of registered societies, the accounts of which are made upto any other date with the previous sanction of the Registrar, the year ending with such date.

CASE LAWS

Year and term of committee Co-operative Societies Act, 1969 (Kerala) - Sections 2 (4) and 28 - "Year" means the period commencing on first day of July of any year and ending with 30th June of the succeeding year of a registered Society – Maximum period of a committee is three years.
ILR 1993 (2) Ker 618 = 1992 (2) KLJ 972 =1993 (1) KLT 103 Kammukutty v/s Joint Registrar of Co-operative Societies and others

RULES

R2. Definitions:- In these Rules, unless the context otherwise requires,

(a)"Act" means the Kerala Co-operative Societies Act, 1969.

(b) "Decree" means any order, decisions or award referred to in Section 76 of the Act.

(c) "Decree Holder" means any person holding a decree [# or legal assignees of the decree.]

(d) "Default" means failure on the part of any person, to repay to the financing bank or to any other society a loan or any other amount due to it within the time fixed for repayment or to return to the society within the time fixed the finished goods in respect of raw materials advanced or to keep any other obligation for the fulfillment of which a time limit has been specified in the bye-laws.

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*Inserted by Act 1 of 2000
**Substituted by Act 9 of 1997
#Inserted by SRO. 679/97

(e) "Defaulter" means any Co-operative Society against which or any person against whom a decree has been obtained.

CASE LAWS

Definitions and disqualification Co-operative Societies Rules, 1969 (Kerala) – Rule 2 (e) – Definition of "defaulter" – A person can be said to be a defaulter only if a decree has been obtained against him for recovery of money.

The materials on record show that all the ingredients of R.44 (1) (c) (i) read with Rule 44 (2) (c) and the Proviso are satisfied in this case. Hence the finding of the statutory authorities that the appellant's case came within the mischief of Rule 44 (1) (c) (i) read with Rule 44 (2) (c) and the proviso is correct. *In this judgment* **1998 (2) KLT 729** *is referred to.*

2004 (1) KLT 407 = ILR 2004 (1) Ker 361 DB Surendran Nair v/s State of Kerala

Definitions and disqualification Rules 2 (d) & (e) & 44 (1) (c) (i) - 'Default' and 'Defaulter' - Rule 2 (d) applies to the first part of Rule 44 (1) (c) (i) and is attracted only if the default is in respect of a loan taken from the society or in respect of which the member is a surety - The second part of Rule 44 (1) (c) (i) deals with a 'defaulter' as defined in Rule 2 (e), that is a person against whom a decree has been obtained.

ILR 1995 (1) Ker 360 = 1994 (2) KLT 974 = 1994 (2) KLJ 754 Rajagopalan v/s Baby Alex

RULES

(f) "Form" means a form set out in Appendix II.

(g) "Net Profit" means net profit as certified by the Registrar.

(h) "Person" includes the Government and a Co-operative Society.

(i) "Sale Officer" means an officer of any Department empowered by the Registrar by general or special order to conduct the attachment and sale or sale without attachment of the property of defaulters, or to execute the order or decision of the Registrar in regard to the attachment and sale or sale without attachment of the property of the defaulter.

(j) "Section" means a section of the Act.

(k) "Working Capital" means such portion of the Reserve Fund, other funds, paid up share capital, loans and deposits received by a society and debentures issued by a society as have not been invested in buildings and other fixed assets.

നമ്പർ എ.ഡി.എൽ(2) 12657/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 21.4.2003

സർക്കുലർ നമ്പർ 22/2003

വിഷയം : **സ്കൂൾ കോളേജ് സഹകരണസംഘങ്ങളുടെ കണക്കു വർഷം സംബന്ധിച്ച്**

സ്കൂൾ/കോളേജ് സഹകരണസംഘങ്ങളുടെ കണക്കു വർഷം പല ജില്ലകളിലും ജനുവരി മാസം ഒന്നാം തിയതി മുതൽ ഡിസംബർ മാസം 31 -ാം തിയതി വരെയായി തെറ്റായി കണക്കാക്കുന്നതായി ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. പ്രസ്തുത സഹകരണ സംഘങ്ങളുടെ വാർഷിക സ്റ്റോക്കെടുപ്പ് ഡിസംബർ 31 -ാം തിയതിയാണ് നടത്തിവരുന്നത്. ശരിയായ ഒരു മാർഗ്ഗനിർദ്ദേശത്തിന്റെ അഭാവമാണ് ഇപ്രകാരം തെറ്റായ രീതിയിൽ കണക്കു വർഷം കണക്കാക്കാൻ ഇടവന്നിട്ടുള്ളത്. ആയതിനാൽ താഴെപ്പറയുന്ന നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു.

1969ലെ കേരള സഹകരണ സംഘം നിയമം വകുപ്പ് 2(യു) പ്രകാരം എല്ലാ വിഭാഗം സഹകരണ സ്ഥാപനങ്ങളുടെയും കണക്കു വർഷം ഏപ്രിൽ ഒന്നു മുതൽ മാർച്ച് 31 വരെയായി കണക്കാക്കിയിരുന്നതായി വ്യക്തമാക്കിയിട്ടുണ്ട്. സ്കൂൾ/കോളേജ് സഹകരണ സംഘങ്ങൾ ഉൾപ്പെടെ 1969 ലെ കേരള സഹകരണ സംഘം നിയമത്തിൻകീഴിൽ വരുന്ന എല്ലാ വിഭാഗം സഹകരണ സംഘങ്ങൾക്കും ടി കണക്കു വർഷം ബാധകമാണെന്ന് ഇതിനാൽ അറിയിച്ചുകൊള്ളുന്നു.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ ഇ.എം.(3) 29407/02 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 24.06.2003

സർക്കുലർ നമ്പർ 34/03

വിഷയം : **സഹകരണ സ്ഥാപനങ്ങളിൽ മുസ്ളിം ജീവനക്കാർക്ക് വെള്ളിയാഴ്ച ജുംഅ നമസ്കാരത്തിന് പോകാനുള്ള അനുമതി സംബന്ധിച്ച്**

സൂചന : **1) കവളങ്ങാട് സർവ്വീസ് സഹകരണ ബാങ്കിലെ ശ്രീ. കെ.എ. മുഹമ്മദ് ഷാഫിയുടെ 17.07.02ലെ നിവേദനം**
2) സർക്കാരിന്റെ 23.4.03ലെ 7700/സി2/02/സഹ:നമ്പർ കത്ത്

എറണാകുളം ജില്ലയിലെ കവളങ്ങാട് സർവ്വീസ് സഹകരണ ബാങ്കിലെ ജീവനക്കാരനായ ശ്രീ. കെ.എ. മുഹമ്മദ് ഷാഫി സൂചന (1) പ്രകാരം, വെള്ളിയാഴ്ച ഉച്ചയ്ക്ക് 12.30 മുതൽ 1.30 വരെയുള്ള സമയം പള്ളിയിൽ പ്രാർത്ഥനയ്ക്ക് പോകുവാൻ മറ്റ് സർക്കാർ ജീവനക്കാർക്ക് ഉള്ളതുപോലെ, മുസ്ലിംങ്ങളായ സഹകരണസംഘം ജീവനക്കാർക്കും പ്രാർത്ഥനയ്ക്ക് പോകുന്നതിന് 12.30 മുതൽ 1.30 വരെയുള്ള സമയം അനുവദിച്ചു കിട്ടുന്നതിന് സർക്കാരിനോട് അപേക്ഷിച്ചിരിക്കുന്നു.

സർക്കാർ സൂചന (2) പ്രകാരം സഹകരണ സ്ഥാപനങ്ങളിലെ മുസ്ലിം ജീവനക്കാർക്ക് വെള്ളിയാഴ്ച ജുംഅ.നമസ്കാരത്തിന് പള്ളിയിൽ പോകുന്നതിന്

സർക്കാർ ജീവനക്കാർക്കുള്ളതുപോലെ ജോലിക്ക് തടസ്സമുണ്ടാക്കാത്ത രീതിയിൽ അനുവാദം നൽകുന്നതാണെന്ന് അറിയിച്ചിരിക്കുന്നു.

ടി സൂചന(2) പ്രകാരമുള്ള സർക്കാർ കത്തിന്റെ അടിസ്ഥാനത്തിൽ സഹകരണ സ്ഥാപനങ്ങളിലെ മുസ്ലിം ജീവനക്കാർക്ക് ജും.അ നമസ്കാരത്തിന് വെള്ളിയാഴ്ച ഉച്ചയ്ക്ക് 12.30 മുതൽ 1.30 വരെയുള്ള സമയം പള്ളിയിൽ പോകുന്നതിന് അനുവാദം നൽകിക്കൊള്ളുന്നു.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്.

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ACT

CHAPTER II
REGISTRATION OF CO-OPERATIVE SOCIETIES

S3. Registrar :- (1) The Government may appoint a person to be the Registrar of Co-operative Societies for the State.

(2) The Government may by general or special order confer on any person all or any of the powers of the Registrar under this Act.

NOTIFICATIONS

Extracts of some important notifications issued by the Government delegating powers of Registrar under Section 3 (2) to the subordinate officers of the Co-operative and other Departments are shown below.

To the officers of the Co-operative Department

TABLE

	Officers	Powers
1	Additional Registrar	All powers of the Registrar under the Act
2.	Joint Registrar	All powers of the Registrar under the Act
3.	Deputy Registrars [*xxx]	All the powers of the Registrar under the Act except those referred to in Section32, 71 (1) and (3) and 87.
4.	Assistant Registrar [*xxx]	The powers of the Registrar under Sections [#29 (2)], 30, 63, 64, 65, 66, [##67], 69, 70, 75 and 76 of the Act

Notification No. 255/69/AD dated 28-6-1969 in K.G. No. 27 dated 8-7-1969

To the officers of the Industries and Commerce Department

THE SCHEDULE

	Column (1)	Column (2)
1.	Director of Industries and Commerce and Additional Director of Industries and Commerce	All powers of the Registrar in respect of all industrial and other Co-operative Societies including Co-op. Sugar Mills under the control of the Industries Department
2.	Regional Joint Directors of Industries and Commerce	All powers of a Registrar except those under Section 69 and Section 87 of the Act in respect

*Omitted by Notification G.O.(MS) 239/70/AD dated 4-6-1970 in K.G. No.25 dated 23-6-70

#Inserted by SRO. 366/80 G.O.(MS) 70/80/AD dated 10-3-1980 in K.G. Ex.No.15 dated 8-4-1980

##Inserted by G.O.(MS) 206/74/AD dated 6-8-1974

		of all Industries and other Co-operative Societies other than Coir Co-op. Societies under the control of the Industries Department and falling within their respective jurisdictions.
3.	District Industries Officers	All powers of a Registrar except those under Sections 14, 15, 32, 71, 72, 73, 74 and 87 of the Act in respect of all Industrial and other Co-operative Societies under the control of the Industries Department and falling within their respective jurisdictions.
4.	[*Director of Coir Development]	All powers of a Registrar in respect of Coir Co-operative Societies under the control of the Industries Department.
5.	[*The Additional Director and of Industries and Commerce (Technical)	All powers of the Registrar of Industries under the said Act in respect of all and other Coop. Societies under the control of Industries Department.]

Notification No. 13364/A1/ID dated 10-7-1969 in K.G. dated 22-7-1969

To the Small Industries Development Commissioner

Government of Kerala hereby confer on the Small Industries Development Commissioner all the powers of the Registrar under the said Act in respect of all Industrial Co-operative Societies under the control of the Industries Department.

Notification No. 341/F2/74/ID dated 13-1-1975 in K.G. No.5 dated 4-2-1975

To the Directorate of Coir Development

SCHEDULE

	(1)	(2)
1.	Deputy Registrar of Co-operative Societies in the Directorate of Coir Development	All powers of Registrar except those under Sections 14, 15, 32, 71, 72, 73, 74 and 87 of the Act in respect of all Coir Co-operative Societies under the control of the Director of Coir Development
2.	Project Officers (Coir)	All powers of Registrar except those under Sections 14, 15, 32, 71, 72, 73, 74 and 87 of the Act in respect of all Coir Co-operative Societies under the control of the Director of Coir Development falling within their respective jurisdiction

SRO.237/75 Notn No. 1523/E2/75/ID dated 30-1-1975 K.G.No.10 dt. 11-3-1975

*Amended and a new clause inserted by SRO.No.236/75 dated 11-3-1975

To Industries Development Commissioner and the Additional Development Commissioner

Government of Kerala hereby confer on the Industries Development Commissioner and the Additional Industries Development Commissioner for industries all the powers of the Registrar under the said Act in respect of all Industrial Co-operative Societies under the control of the Development of Industries and Commerce.

SRO.No. 1004/75 Notification No. 27780/A1/75/ID dated 20-10-1975 in K.G. No.43 dated 4-11-1975

To the Assitant registrar of Coir Development

Government of Kerala hereby confer on the Assistant Registrar, office of the Director of Coir Development the powers of the Registrar those under Sections 30, 65, 66, 69,70, 75 and 76 under the said Act.

SRO.No.627/76 Notification No. 30877/E2/75/ID dated 29-3-1976 in K.G. No.24 dated 15-6-1976

To the Assitant registrars, office of the Project Officers (Coir)

Government of Kerala hereby confer on the Assistant Registrars, office of the Project officers (Coir), the powers of the Registrar under Sections 30, 65, 66, 69,70, 75 and 76 of the said Act.

SRO.No.246/77 G.O.(MS) No.60/77/ID dated 4-3-1977 in K.G. No.12 dated 22-3-1977

To the General Managers of District Industries Centres

Government of Kerala hereby confer on the General Managers of District Industries Centre, all powers of the Registrar under the said Act in respect of all Industrial and other Co-operative Societies other than Coir Co-operative Societies under the control of the Industries Department and falling within their respective jurisdiction.

SRO.No.857/79 Notification No. 20525/F2/79/ID dated 21-7-1979 in K.G. Ex. No. 528 dated 27-7-1979

To the Director of Handlooms

Government of Kerala hereby confer on the Director of handlooms, all powers of the Registrar under the said Act in respect of all Handloom Weavers Co-operative Societies including Handloom Industrial Co-operative (Workshop) Societies, Central and Apex Handloom Weavers Co-operative Societies, and Powerloom Weavers Industrial Co-operative Societies under the control of the Industries Department.

SRO.No.1239/79 Notification G.O.(Rt) No. 1001/79/ID dated 14-9-1979 in K.G. No. 45 dated 13-11-1979

To the Deputy Registrars in District Industries Centres

Government of Kerala hereby confer on the Deputy Registrars of Co-operative Societies in the District Industries Centres, the powers of the Registrar under the said Act, except those reffered to in Section 32, sub-sections (1) and (3) of Section 71 and

Section 71 and Section 87 of the said Act in respect of all Industrial Co-operative Societies, other than Coir Co-operative Societies under the control of the Industrial Department and falling with their respective jurisdictions.

SRO.No.698/80 Notification G.O.(MS) No. 192/80/ID dated 11-7-1980 in K.G. No. 32 dated 5-8-1980

To the Director of Fisheries and Joint Director of Fisheries (Planning)

Government of Kerala hereby confer on the Director and the Joint Directors of the Fisheries Department, all the powers of the Registrar of Co-operative Societies under the said Act, in respect of all Co-operative Societies, under the control of the Fisheries Department.

SRO.No.569/83 Notification G.O.(P) No. 17/83/TF & PD dated 22-3-1983 in K.G. No. 20 dated 17-5-1983

To the Additional Director, Coir Development

Government of Kerala hereby confers on the Additional Director, Coir Development, all the powers of the Registrar of Co-operative Societies under the said Act, except those under Sections 63 and 64 thereof.

SRO.No.1178/87 Notification No. 8667/E3/87/ID dated 18-8-1987 in K.G. Ex.No. 713 dated 25-8-1987

To the officers of the Khadi and Village Industries Board

SCHEDULE

	persons	Powers
1.	Secretary, Kerala Khadi and Village Industries Board, Trivandrum	All powers of the Registrar of Co-operative Societies in respect of all Khadi and Village Industries Co-operative Societies in the State except audit
2.	Deputy Director (Co-operation)	All powers of Registrar of Co-operative Societies in the Co-operative Department under Kerala Co-operative Societies Act, 1969 (21 of 1969) in respect of Khadi and Village Industries Co-operative Societies except audit
3.	Deputy Registrar of Co-operative Societies, Kerala Khadi and Village Industries Board, Trivandrum	All powers of the Registrar except those under Section 69 and Section 87 of the Act in respect of the Khadi and Village Industries Co-operative Societies in the State
4.	Project Officers	All powers of the Registrar of Co-operative Societies except those under Section 32, 69, 71, 72, 73, 74 and 87 of the Act in respect of all Khadi and Village Industries Co-operative Societies falling within their respective jurisdiction.

5.	Assistant Registrar	All powers of the Registrar of Co-operative Societies except those under Section 6, 7, 8, 12, 13, 14, 32,71,72, 73, 74 and 87 of the Act in respect of all Khadi and Village Industries Co-operative Societies falling within their respective jurisdiction.

SRO.No.549/88 Notification No. 33395/C3/84/ID dated 28-4-1988 in K.G. No. 396 dated 2-5-1988

To the officers of Dairy Development Department

THE SCHEDULE

	Officers	Powers
1.	Director of Dairy Development Department	All the powers of the Registrar except those under Section 63 of the Act in respect of Dairy Co-operatives under the control of Dairy Development Department
2.	Deputy Directors of Dairy Development Department	All powers of the Registrar except those under Sections 63, 69 and 87 of the Act in respect of Dairy Co-operatives under the control of the Dairy Development Department and falling within their respective jurisdictions.
3.	Assistant Directors of Dairy Development	All powers of the Registrar except those under Sections 14, 15, 32, 63, 69, 71, 72, 73, 74 and 87 of the Act in respect of Dairy Co-operatives under the control of the Dairy Development Department and falling within their respective jurisdictions.
4.	Dairy Extension Officers of the Dairy Development Department	The powers of the Registrar under Sections 29(2), and 64 of the Act in respect of Dairy Co-operatives under the control of the Dairy Development Department and falling within their respective jurisdictions.
5.	Dairy Farm Instructors of the Dairy Development Department	The powers of the Registrar under Sections 29(2), and 64 of the Act in respect of Dairy Co-operatives under the control of the Dairy Development Department and falling within their respective jurisdictions.

SRO.No.22/96 Notification No. G.O.(P) No.16/96 AD dated 4-1-1996 in K.G. No.41 dated 5-1-1996

To the Director of Tourism

The Government of Kerala hereby confers on the Director of Tourism, all the powers of the Registrar except those under Section 63 of the Act, in respect of all Tourism and Hospitality Co-operative Societies in the State under the control of the Tourism Department.

SRO.No.10/2005 G.O.(P)No.11/05/GAD dated 5-1-2005 K.G.Ex.Vol 50 No.26

CASE LAWS

Case laws under the head Registrar are given under the following heads.

1. Delegation of power
2. Duties and functions of Registrar
3. Quasi Judicial Authority
4. Registrar as a Civil Court
5. Power to rescind resolution
6. Power to sanction where Bye-laws are silent
7. Power conferred by the Bye-laws
8. Registrar as Central Registrar
9. Subordinates of Registrar

DELEGATION OF POWER

Delegated legislation Article 254 of Constitution - Delegated legislation - Need and limits - Legislature cannot possibly foresee every administrative difficulty that may arise in operation of statute - Delegated legislation fills those needs - Delegated legislation is meant to suppliment not supplant the enabling statute.

2003 (1) KLT SN 130 = 2003 (3) SCC 321 = AIR 2003 SC 1533 FB St. Johns Teacher's Training Institute v/s Regional Director, NCTE

Registrar under Section 70 The words "The Registrar" mentioned in Section 70 of the Act can only mean "The Registrar" who is appointed under Section 3 (1) of the Act and not a person who had been conferred with the powers of the Registrar by government under sub-section (2) of Section 3.

1986 KLT 274

Assistant Registrars Power of Registrar conferred on Assistant Registrars vide notification No.S.A 493/P A 25/61/S.3/63 dated. 12th Sept. 1963 - Carving put of a new division - Non issuance of new notification by Government superceding earlier notification - Effect - Assistant Registrar will be deemed to be Registrar so far as powers under Section 55 and 56 are concerned until powers are withdrawn. (Section. 55, Punjab Co-operative Societies Act, 1961)

1977 PLJ 400

Additional Registrar Notification under Section 3 (3) conferring on Additional Registrar all powers of Registrar under Act-Subsequent amendment of Section 26 (1-D) by Ordinance (9 of 1973) - The notification conferring powers survive.

(Section 3 Punjab Co-operative Societies Act, 1961)
1975 Cur LJ 218 = 1975 Rev LR 303

Assistant Registrar Power delegated to Assistant Registrar by Notification on 1-5-1968 cannot operate retrospectively before that date.
(Bihar & Orissa Co-operative Societies Act, 1935, Section 6)
AIR 1971 SC 2001 = 1972 (3) SCC 172 = 1972 Pat LJR 146 = 1971 (2) Civ APJ 38 = 1971 SCD 637 Achuyanand Singh v/s State of Bihar

Power of Registrar Delegation must be express.
(Bihar and Orissa Co-operative Societies Act, 1935, Section 66 (4))
AIR 1968 Pat 211

DUTIES AND FUNCTIONS OF REGISTRAR

Day to day affairs of the society Registrar cannot interfere with the day to day affairs of the society - The Joint Registrar is not competent to interfere with the day to day affairs of the society. Even though under the Section 66 of the Act, the Joint Registrar has power to supervise the affairs of the society the said power also would not cloth the Joint Registrar to review the entire resolution and action taken by the society with retrospective effect and direct the society to undo what they have done earlier even after the expiry of long number of years. At any rate such power is admittedly vested with the Joint Registrar of the Societies.
1994 (1) KLT SN 26 P 27 Chandran v/s State of Kerala

Use of power beyond its scope If the power conferred by the statute is exercised for a purpose of with an intention beyond the scop and contemplation of the instrument creating it the action is liable to be interfered with on the ground that it constitutes fraud on the power granted by the statute. The order of the statutory authority can also be challenged if the action was taken on grounds totally irrelevant on the purpose and intention of the statute or that the grounds stated by the authority are such that no one can reasonably arrive at the opinion or satisfaction requisite under the legislation.
AIR 1973 (2) Ker 511 = 1974 (10) CLJ 74 = 1974 CLR 363

Administrative power Powers conferred on Registrar is administrative power is to be exercised on his subjective satisfaction.
(Travancore-Cochin Co-operative Societies Act (10 of 1952), Section 96).
1969 KLT 287 = 1969 KLJ 194

Valid approval under the bye-law The investment of the Joint Registrar by the Government with all the powers of the Registrar under the Act by the notification under Section 3 could not make the approval given by the Joint Registrar to the resolution of the Managing Committee a valid approval under the bye-law.
(Co-operative Societies Act, 1912, Section 3 and 42 (2) (c))
AIR 1960 MP 273 = ILR 1959 MP 840 = 1960 MPLJ 433 = 1960 Jab LJ 340

QUASI JUDICIAL AUTHORITY

Acts of Registrar Registrar acts in quasi-judicial capacity.

(Uttar Pradesh Co-operative Societies Act (11 of 1966), Section 128)
1971 All WR HC 753

Sanctioning power Sanctioning power is a quasi-judicial one.
(Andhra Pradesh Co-operative Societies Act, 1964, Section 83 (3))
1971 (1) Andh WR 70

Quasi judicial authority Registrar functions as 'quasi' judicial authority.
(Madras Co-operative Societies Act (6 of 1932), Section 12 (2))
AIR 1955 Mad 267

REGISTRAR AS A CIVIL COURT

Contempt of Courts Assistant Registrar in deciding a dispute under that Act was functioning as a court subordinate to the High Court for the purpose of section 3 of the Contempt of Courts Act.

Assistant Registrar functioning under the Act is subordinate to High Court and is amenable to Art 227 of the Constitution of India
(Bihar and Orissa Co-operative Societies Act (6 of 1935))
AIR 1967 SC 1494 Thakur Jugal Kishore Sinha v/s Satamarhi Central Co-operative Bank

Registrar a civil court Registrar while discharging such functions is a civil court - Madras Co-operative Societies Act (VI of 1932)
AIR 1949 Mad 595 Subramanya v/s Official Liquidator

POWER TO RESCIND RESOLUTIONS

Directions of Agricultural Department Directions or instructions issued by the Agricultural Department of the Kerala Government come within the purview of Rule 176
2000 (1) KLT 264 State of Kerala v/s Rajan

Recruitment made by Apex Bank Setting aside for malpractice - Notice issued by Registrar to Bank under Rule 176 not indicating any malpractice in recruitment test. Report of Public Men's Commission which was not supplied to bank or appointees considered by Registrar. Conclusion of Registrar about malpractice in selection is vitiated on account of violation of natural justice.
1998 (1) KLT 858 (SC) = 1998 (1) KLJ 602 = 1998 Lab IC 1887 = AIR 1998 SC 2012 Benny T.D. v/s Registrar

Natural justice Principles of natural justice must be taken as inbuilt in the power of Registrar - Persons who have been appointed by the bank are entitled to be afforded in opportunity to be heard in the proceedings before the Registrar can rescind a resolution only as the existence of one of four of the circumstance (1) if it appears to the Registrar that it is ultra vires the objects of the society (2) if it is against the provisions of the Act, Rules, bye-laws or any direction or instruction issued by the Department. (3) If it is calculated to disturb the peaceful and orderly working of the society and (4) if it is contrary to the better interest of the society. This power is notwithstanding anything contained in the bye-law.

1996 (2) KLT 26 = ILR 1996 (3) Ker 172 = 1996 Lab IC 1926 = 1996 (1) KLJ 531 Purushothaman v/s Registrar

Scope Registrar is competent to rescind any resolution of any meeting of any society or the Committee of any society if it appears to him that such resolution is ultra vires of the objects of the society or is against the provisions of the Act. Rules, bye-laws or any directions or instructions issued by the Department or calculated to disturb the peaceful and orderly working of the society and contrary to better interest of the society. Only on satisfying any of the conditions stipulated in Rule, the Registrar is competent to rescind any resolution passed by the Committee of the society.

1994 (1) KLT SN 26 P 27 Chandran v/s State of Kerala

Resolution of the body of promoters Body of promoters who joined the application for registration of society constitutes the General Body of society. Any resolution passed by them could be rescinded by the Registrar under Rule 176

1993 (2) KLT 366 = 1993 (2) KLJ 36 Poulose v/s Joint Registrar

Resolution on illegal meeting A resolution passed at a meeting convened or held illegally is equally within the ambit of rescission under Rule 176 and subject of scrutiny in exercise of the power thereunder by the Registrar.

1990 (1) KLT 374 = 1990 (1) KLJ 279 N.A. George v/s Secretary Manimala Service Co-operative Bank and others

Rescinding a resolution Circumstance under which the Registrar can rescind the resolution under Rule 176

(Punjab Co-operative Societies Rules, 1963, Rule 80)

1990 (1) KLT 374 = 1990 (1) KLJ 279 N.A. George v/s Secretary Malanadu Service Co-operative Bank and others

Meeting without notice Registrar has been invested with power to rescind or quash a resolution which is passed in violation of the mandatory provisions regarding notice.

(Punjab Co-operative Societies Rules, 1963, Rule 80)

1985 (1) AI LLR 152

Abuse of powers The power of Registrar of Cooperative Societies to rescind the proceedings of the Committee of Management can be invoked only in those cases where there is a possibility of abuse of powers by the Committee of Management.

1980 CLJ 26

Incorrect recording in minutes A resolution passed cannot be annulled on the ground that the minutes of the meeting were not correctly recorded.

U.P. Co-operative Societies Act, 1966

AIR 1973 SC 1052 = 1973 (1) SCC 593 Veerpal Singh v/s Deputy Registrar of Co-operative Societies

POWER TO SANCTION WHERE BYE-LAWS ARE SILENT

Illegalities committed in violation of the bye-laws Rule applies where

bye-laws are silent on an aspect.- Rule 180 is interested to provide for extraordinary circumstances where society may have to act in a particular matter, and the bye-laws are silent on that aspect. But this does not legitimise illegalities committed in violation of the bye-laws of the society.

1990 (1) KLT 530 = ILR 1990 (3) Ker 1064 = 1990 (1) KLJ 447 Janardhanan v/s Joint Registrar

POWER CONFERRED BY THE BYE-LAWS

Nomination to the first Board of Directors Powers of Registrar - Registrar is competent under the bye-laws to nominate first Board of Directors and further give a direction that an election be held within a specified period-Chief Minister of a State has no jurisdiction to usurp the powers of Registrar-Chief Minister cannot give any direction.
(Bihar and Orissa co-operative Societies Act, 1935, Sections 14, 64 and 65A - Bihar Co-operative Societies Rules, 1959 Rule 85)

1984 CLR 1 = AIR 1984 SC 322 = 1984 (20) CLJ 137 = 1984 BLJR 670 = 1984 BLJ 92 Chandrika Jha v/s State of Bihar

Period of nomination Bye-laws silent as to the period for which persons can be nominated - Registrar has no power to revoke nomination of the members of the Committee made by him - Section 28 provides that Registrar may nominate all or any of the members of the Committee where the bye-law so provide. The section does not confer any special power on the Registrar in that behalf. It is only an enabling provision which makes it possible for the Registrar to nominate members in terms of the bye-laws. In the absence of any provision to that effect in the bye-laws, the Registrar has no such power. The power of the Registrar to nominate, if the bye-law so provide, is not statutory power. Section 28 does not confer such power, but permits the society to do so by means of bye-laws which are contractual in nature and similar to Articles of Association of Company. They may be binding between the persons affected by them; but they do not have the force of a statute. In matters of nomination the Registrar was not empowered under the statute but only under the bye laws.

1976 KLT 318 = ILR 1976 (1) Ker 650 Sukumaran v/s Sukumaran Unni

REGISTRAR AS CENTRAL REGISTRAR

Sub-Delegation Power of Central Registrar delegated to State Registrar-State Registrar cannot sub-delegate them further to his assistants.
(Rajasthan Co-operative Societies Act (13 of 1965), Section 70)

1974-75 (10) CLJ 49

SUBORDINATES OF REGISTRAR

Neglect of duty Sections 63 to 69 conferred enormous powers on the Registrar and in spite of such sweeping powers conferred upon the officers of the Co-operative Department, they have not taken at the appropriate stage against the

Committee of Management, was clearly an illegal action on the part of the officialdom by neglect of duty.

(Kerala Co-operative Societies Act 1959, Sections 63 to 69)

ILR 1980 (2) Kar 1402 = 1980 (2) Kant LJ 257 = 1980 (16) CLJ 28 Part 4

Subordinate District Co-operative Bank is not subordinate to the Registrar Co-operative Societies.

1980 (2) And WR 431 = 1981 (1) Services LR 142

ACT

S4. Societies which may be registered :- Subject to the provisions of this Act, a co-operative society which has as its object the promotion of the economic interest of its members or of the interests of the public in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act.

S5. Registration with limited liability only :- (1) A co-operative society shall be registered only with limited liability.

Provided that this sub-section will not affect the rights and liabilities of societies with unlimited liability which are in existence at the time of commencement of this Act.

(2) The word "limited" or its equivalent in any Indian language shall be the last word in the name of a society registered under this Act with limited liability.

S6. Application for registration of co-operative societies :- (1) An application for the registration of a co-operative society shall be made to the Registrar in such form as may be prescribed and the applicant shall furnish to him such information about the society as he may require.

(2) Every such application shall conform to the following requirements, namely:-

(a) the application shall be accompanied by three copies of the proposed bye-laws of the society;

(b) where all the applicants are individuals, the number of applicants shall not be less than twenty-five each of such persons being a member of a different family.

(c) the application shall be signed by every one of the applicant who is an individual and by a person duly authorised on behalf of the Government or any society or other body of persons which is an applicant.

Explanation :- For the purposes of this clause, the expression "member of a family" means wife, husband, father, mother, grand father, grand mother, stepfather, step mother, son, daughter, step son, step daughter, grand son, grand daughter, brother, sister, half brother, half sister and wife of brother or half brother;

S7. Registration:- (1) If the Registrar is satisfied-

(a) that the application complies with the provisions of this Act and the rules;

(b) that the objects of the proposed society are in accordance with section 4;

(c) that the area of operation of the proposed society and the area of operation of another society of similar type do not overlap;

(d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules; and

(e) that the proposed society complies with the requirements of sound business;

he may register the society and its bye-laws [*within a period of ninety days from the date of receipt of the application.]

(2) Where the registrar refuses to register a society, he shall communicate the order of refusal together with the reasons therefore within seven days of such order to such of the applicants as may be prescribed.

(3) An application for registration of a society shall be disposed of by the Registrar [*within ninety days] from the date of receipt of the application.

[*(4) Where an application for registration of a society is not disposed of within the time specified in sub-section (3), the applicant may make a representation,-

(a) before the Registrar, if the application for registration is made to a person on whom the powers of the Registrar is conferred under sub-section (2) of Section 3 or

(b) before the Government, if the application for registration is made before Registrar, and the Registrar or the Government, as the case may be, shall within sixty days from the date of receipt of such representation, issue directions, to the authority concerned, to take appropriate decision on the application for registration and the authority concerned shall comply with such directions.]

RULES

R3. Application for Registration :- (1) Every application for registration of a Society under sub-section (1) of Section 6 shall be made in duplicate in Form No.1 be accompained by-

(a) three copies of the proposed bye-laws of the society;

(b) a certificate from the Bank or Banks stating the credit balance in favour of the proposed society therein;

(c) a list of persons in duplicate who have contributed to the share capital, together with the amount contributed and the entrance fee paid by each of them;

[**(d) the scheme showing the details as to the soundness of the proposed business of the society; and

(e) such other information and documents as may be required by the Registrar]

(2) When the applicants are individuals, the application shall be signed by not less than 25 persons each of such persons being a member of a different family.

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* Added, substituted and amended by Act 1 of 2000

** Substituted by SRO.No. 1317/90

(3) Where any member of a society to be registered is a registered society, a member of the committee of such registered society shall be authorised by the committee of that society by a resolution, to sign the application for registration and the bye-laws on its behalf, and a copy of such resolution shall be appended to the application.

(4) Where any member of a society to be registered is a body whether statutory or non-statutory, committee or Corporation that body shall authorise any person to sign the application for registration and the bye-laws on its behalf, and a copy of the resolution giving such authority shall be appended to the application.

(5) The application shall be sent to the Registrar by registered post, or delivered in office in person.

[*(6) Chalan receipt for Rs. 50 shall be appended to the application.]

FORM I

[See Section 6 (1) of the Act and sub-rule (1) of Rule 3]

Form of applications for Registration as a Co-operative Society under the Kerala Co-operative Societies Act, 1969

1.Name proposed society	:
2.The Headquarters of the Society	:
3.(a) Name of Place	:
(b) Name of village/town	:
(c) Taluk	:
(d) District	:
(e) The nearest railway station or well known place and distance therefrom	:
4.Area of operation of the society (name of town/ village including wards, if any, to be specified)	:
5.Total population/household in the area of operation mentioned in column (3) above	:
6.Name and postal address of the person (the chief promoter to whom communication relating to the registration of the proposed society may be addressed)	:
6.(a) Liability of Members	:
7.Whether 3 copies of the draft bye-laws accepted by the applicants and duly attested by all the applicants referred to in column (10) below, are enclosed	:
8.Whether the membership of the society is limited to individuals only	:
9.Names of persons elected by the applicants to the committee, to conduct the affairs of the society for a period of 3 months from the date of registration of	:

* Substituted by SRO.No. 380/2000

the society or for such further period as the Registrar may consider necessary

1.
2.
3.
4.

10. Whether a list of promoters, in duplicate showing their names, father's name, age, profession, place of residence, number of shares taken and signature or thumb impression, is enclosed as required in clause (c) of sub-rule (1) of rule 3 :

11. Whether a certificate obtained from the Central Bank stating the share suspense remitted in favour of the convener of the proposed society, is enclosed as required in clause (b) of sub rule 3 :

12. Whether the individual applicants are members of a different family :

We declare that the information given above including that in the enclosures is correct to the best of our knowledge and belief.

Applicants (1) **Chief Promoter**
(2)
(3)

Note:- 1. In the case of a representative of society, a copy of the resolution of the committee of that society authorising him to sign on its behalf this application and bye-laws should be enclosed with this application.

2. In the case of a corporate body, representative status of the signatory on behalf of the corporate body should be indicated.

3. The expression "Member of Family" means wife, husband, father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son, grand-daughter, brother, sister, half brother, half-sister and wife of brother or half-brother.

Enclosures:- (1) Bank balance certificate.
(2) List of persons who have contributed, to the share capital together with the amount contributed, by each of them and the entrance fee to be paid by them.
(3) The scheme showing the details as to how the working of the society will be economically sound.

*(4) a Copy of resolution authorising a member of the committee of the registered society to sign the application on behalf of the society.

†(5) A copy of the document authorising any person to sign the application on its behalf issued by statutory or non-statutory Board, Committee or Corporation.

FORM OF ACKNOWLEDGMENT

Sent by registered post on ...../delivered by hand by ....to .....in the office of the Assistant Registrar/Deputy Registrar/Registrar .....

Chief Promoter

Received by registered post/hand delivery on ..... by ....in the office of the Assistant Registrar/Deputy Registrar/Registrar ..... Entered in the register of registration proposals as Serial No.....

(Signature of the Officer receiving the application)

ACKNOWLEDGEMENT

Received Registration proposal No .....on .....for the registration of ..... Society from the Chief promoter Sri .....

Place :

Date : **(Assistant Registrar/Deputy Registrar/Registrar)**

FORM No.2

[See sub-rule (1) of Rule 4]

Sl. No.	Name of the Proposed society	Date of receipt with initial of Registrar	Nature of disposal (Orders in appeal, if any, to be indicated)
(1)	(2)	(3)	(4)

No. of the Society, if registered	Date of starting	Address of society	Remarks
(5)	(6)	(7)	(8)

* To be forwarded when any member of the Society to be registered is itself a registered Society.

† To be forwarded when any member of the Society to be registered Statutory or Non-Statutory Board, Committee or Corporation constituted for the purpose of development of an industry.

RULES

R4. Registration :- (i) On receipt of an application under rule 3, the Registrar shall enter particulars of the application in the register of application to be maintained in Form 2 give a serial number to the application and issue a receipt in acknowledgment thereof.

(ii) The Registrar shall then examine the application and the bye-laws in order to satisfy that the conditions specified in clauses (a) to (e) of section 7 and rule 3 are satisfied.

(iii) The Registrar may call for such further information or make such enquiry as he may deem necessary or direct the Chief Promoter to make such modifications in the proposed bye-laws as he may deem fit. The Chief Promoter shall there upon furnish such information or make such modification in the proposed bye-laws as the Registrar may direct with the consent of the applicants within a period to be specified by him.

(iv) If the Registrar is satisfied that the proposed Society has complied with the above requirements he may register the society and its bye-laws and issue to the society free of cost, a certificate of registration in Form No.3 signed by himself and bearing his official seal along with a certified copy of the bye-laws as approved and registered by him. The certificate of registration shall contain the registration number of the society and the date of its registration. The Registrar may assign for each District and each class or such class of Societies, a code symbol, for giving registration numbers to the societies,. When a society, has been registered, the bye-laws as approved and registered by the Registrar shall be the registered bye-laws of the society for the time being in force.

(v) When the Registrar is not satisfied, he shall pass an order of refusal together with the reasons therefore and communicate it by registered post to the Chief Promoter within 7 days of such order.

(vi) Any decision to register the society under sub-rule (iv) or any refusal of an application for registration of a society under sub-rule (v) shall be made [*within ninety days] from the date of receipt of application.

(vii) A copy of the certificate of registration together with a copy of the bye laws shall be furnished to the Financing Bank, Central or Apex Society, [**the Circle Co-operative Union concerned and the State Co-operative Union.]

ACT

S8. Registration Certificate :- Where a co-operative society is registered under this Act, the Registrar shall issue a certificate of registration signed and sealed by him, which shall be conclusive evidence that the said society is duly registered under this Act.

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* Substituted by SRO.No. 380/2000

** Substituted by SRO.No. 510/69

FORM No.3

[See sub rule (iv) of Rule 4]

Certificate of registration issued under Section 8 of the Kerala Co-operative Societies Act, 1969 (Act 21 of 1969)

I do hereby certify in exercise of the powers conferred on me under Section 7 of the Kerala Co-operative Societies Act, 1969, (Act 21 of 1969), that the ....P.O. in .....Taluk/District is registered by me to-day as a Co-operative Society under the said Act, on the basis of limited liability and that the bye laws of the aforesaid society are also hereby registered under the said section.

The Registration No. of the said society is .... Date of Registration of the Society is .....

A copy of the bye law of the society as registered and attested by me is appended to this certificate.

Place : (Seal)

Date : **Registrar of Co-operative Societies**

FORM No.4

[See sub-rule (vii) of rule 11 (i)]

Register of Co-operative Societies registered under the Act

District .....

Registered Sl. No.	Full name & address of the society	Taluk	Authorised Share capital	Date of Registration of society
(1)	(2)	(3)	(4)	(5)

File No.	Class of society as per rule 15	Sub classes	Initial of Registrar
(6)	(7)	(8)	(9)

Date of Registration of amendment of bye laws	Classes to which amendments relate	Initial of Registrar	Order No. and date of winding up by the Registrar
(10)	(11)	(12)	(13)

Page No. and date of Government Gazette notifying winding up	Number and date of cancellation	Remarks
(14)	(15)	(16)

ABSTRACT OF NOTIFICATIONS

Government of Kerala have exempted classes of societies from the requirements as provided by the Act and the Rules. Abstracts of some of these important notifications are shown below.

Housing Co-operative Societies

Government of Kerala hereby exempt all the Housing Co-operative Societies from the purview of clause (c) of sub-section (1) of Section 7 of the Kerala Co-operative Societies Act, 1969.

SRO.No. 1288/79 Notification G.O.(MS) No. 418/79/AD dated 9-11-1979 in K.G. No. 47 dated 27-11-1979

Small Scale Industrial Co-operative Societies and Handicrafts Co-operative Societies (other than Coir and Handloom Co-operative Societies)

Government of Kerala hereby direct that the provisions in clause (b) of sub-section (2) of Section 6 of the said Act and sub-rule (2) of Rule 3 of the said Rules shall apply to Small Scale Industrial Co-operative Societies / Handicraft Co-operative Societies (other than Coir and Handloom Societies) subject to the modification that :-

1. for the words "twenty five" in clause (b) of sub-section (2) of Section 6 of the said Act the words "ten" shall be substituted; and

2. for the figures "25" in the sub-rule (2) of Rule 3 of the said Rules the figures "10" shall be substituted.

SRO.No. 1344/86 Notification G.O.(MS) No. 197/86/ID dated 6-8-1986 in K.G. No. 35 dated 2-9-1986

Hospital / Dispensary Co-operative Societies

Government of Kerala hereby exempt all the proposed Hospital/ Dispensary Co-operative Societies from the provisions of clause (c) of sub-section (1) of Section 7 of the said Act.

SRO.No. 1360/86 Notification G.O.(P) No. 48/86/Coop dated 15-7-1986 in K.G. No. 36 dated 9-9-1986

Motor Transport Co-operative Societies

Government of Kerala hereby exempt all the proposed Motor Transport Co-operative Societies from the provisions of clause (c) of sub-section (1) of Section 7 of the said Act.

SRO.No. 1436/89 Notification G.O.(P) No. 41/89/Coop dated 31-7-1989 in K.G. Ex.No. 779 dated 19-8-1989

General Marketing Co-operative Societies / Rubber Marketing Co-operative Societies

Government of Kerala hereby exempt all the proposed General Marketing

Co-operative Societies / Rubber Marketing Co-operative Societies from the provisions of clause (c) of sub-section (1) of Section 7 of the said Act.

SRO.No. 1693/89 Notification G.O.(P) No. 54/89/Coop dated 6-10-1989 in K.G. Ex.No. 914 dated 7-10-1989

Labour Contract Co-operative Societies

Government of Kerala hereby exempt all the existing and proposed Labour Contract Co-operative Societies from the provisions of clause (c) of sub-section (1) of Section 7 of the said Act.

SRO.No. 1797/89 Notification G.O.(P) No. 58/89/Coop dated 8-11-1989 in K.G. Ex.No. 1018 dated 10-11-1989

Printing Co-operative Societies

Government of Kerala hereby exempt all the proposed Printing Co-operative Societies from the provisions of clause (c) of sub-section (1) of Section 7 of the Kerala Co-operative Societies Act.

SRO.No. 2044/89 Notification G.O.(P) No. 38/89/Coop dated 27-7-1989 in K.G. No. 48 dated 5-12-1989

Social Welfare Co-operative Societies

Government of Kerala hereby exempt all the Social Welfare Co-operative Societies from the provisions of clause (c) of sub-section (1) of Section 7 of the Kerala Co-operative Societies Act, 1969

SRO No.368/2002 G.O.(P)No.34/2002/Coop dated 3-5-2002 K.G.Ex.Vol.47, No.663

CASE LAWS

Case laws under Registration are further classified as shown below.

1. Application
2. Procedure
3. Exemption

APPLICATION

Ultimate power and control vests in Registrar Co-operative Society which is formed only for promoting economic interest of its members-Can be registered under the Act - Registrar act as a mentor and can direct amendment of Bye-laws of Co-operative Society which are in conflict with the provisions of Act and Rules-Ultimate power and control vests in Registrar - General Body or Managing Body of Co-operative Society does not possess unlimited authority.

(Section 23 (1) Punjab Co-operative Society Act, 1961)

1976 PLJ 491

Area of operation Area of operation of the new society falling in part with an area of existing society. Existing society is not to have any legal grievance. Writ Petition under Art.226 is not maintainable.

1976 KLT 437 Kasaragod Co-operative Land Mortgage Bank v/s State of Kerala

Date of effect of a bye-law Mere despatch of a proposed amendment of a bye-law to the Registrar does not constitute its registration. Unless the Registrar receives the amendment and actually registers it, it cannot take effect.

1971 (73) PLR 915 Harjit Singh Ahluwalia v/s State of Punjab

Unregistered society incurred loans Where the Secretary of an unregistered society incurred loans on promissory notes and the loans were utilised by the Society a suit by the creditor for the recovery of the money should be brought against all the members of the society. If the creditor comes to Court with a false story that the Secretary took the amount for his personal necessity, he cannot say that the Secretary was personally liable as he is, also one of the members of the Society.

AIR 1961 Cal 393 Nalin Behari Roy v/s Biseswar Bhattacharya

PROCEDURE

Registration Section 7 (1) (e) – Eventhough a provision in the amendment Act which does not find a place in the parent Act, can remain independent of the parent Act.

2003 (1) KLT 297 = AIR 2003 NOC Ker 243 Alapuzha District Co-operative Bank Ltd v/s State of Kerala

Rejecting the list of members Power of the Registrar to accept or reject the list of members of the Managing Committee.

WA 1494/97 *dated* **8-12-97 Cheruvassery Mohammed v/s Aboobacker**

Refusal of registration Where an Assistant Registrar refuses registration under a particular name to a proposed Society and registers another Society under that name, revision to the Registrar against the composite order is competent.

(Bihar & Orissa Co-operative Societies Act, 1935, Section 11)

AIR 1973 Pat 77 = 1972 BLJR 455 = (1973-74) 9 CLJ 138

Power to register a Society Power cannot by implication be construed to include the power to register a new amalgamated Society after compulsory amalgamation of two existing Societies.

(Bihar and Orissa Co-operative Societies Act, 1935, Section 11, 66 (4) and 6(2) (a) - Bihar Co-operative Societies Rules 1959, Rule, 39)

AIR 1968 Pat 211 = ILR 46 Pat 1068

Mandamus Refusal of Registrar to register Society under Section 11 - Mandamus will not issue.

(Assam Co-operative Societies Act, 1949, Section 11)

AIR 1965 Mani 1

Abdication of statutory power The exercise of power by the Registrar is a statutory function and his direction to the Deputy Registrar to register a co-operative society on the strength of a Government order amounts to abdication of statutory power.

1960 KLT 1100 Muhamma Lime Shell Co-operative Society Ltd v/s State of Kerala

Exemption A Co-operative Society which has come into existence after complying with the above conditions cannot be allowed to violate the same. The power of the Government under Section 101 should not be exercised in such a manner as to nullify the condition, the compliance of which is mandatory for society to come into existence.

1989 (1) KLT 350 = 1989 (1) KLJ 209 Quilon Taluk L.C. and T. Co-operative Society v/s State of Kerala

Registration is Voluntary The word 'may' occurring in Section 4 shows that the registration of the Society is not compulsory but voluntary. There is no compulsion to registrar a Society to enable it to carry on activities which could be carried on by a Society registered under the Act.

(Maharashtra Co-operative Societies Act (24 of 1961), Section 73-A)

AIR 1984 Bom 47 = 1984 (20) CLJ 77

Overlapping of area of operation Order directing registration of new Society under Section 7 (1) - Area of new Society overlapping - Writ petition not maintainable.

AIR 1977 Ker 50 = 1976 (12) CLJ 184 = 1976 KLT 437

Area of operation and Revision Co-operative Societies Act, 1969 (Kerala) - Section 83 (1) - Whether sanctioning a Society by the Government in a place which is a part of the area of operation of an already existing Society (Petitioner) without notice to the petitioner will amount to violation of the principles of natural justice – There was no obligation on the part of the State Government to give a notice or afford a hearing to the petitioner Society before the impugned order was passed. The contention that there was a violation of the principles of natural justice has therefore to fail. It has to be held that the petitioner has no locus standi for challenging the order. *In this judgment* **1967 (1) And WR 244 Beeminipatnam Co-operative Land Mortgage Bank Ltd v/s Government of Andhra Pradesh, 1968 (1) And WR 52 The Vizianagaram Co-operative Land Mortgage Bank Ltd v/s The Buminipatnam Co-operative Land Mortgage Bank Ltd** *and* **1970 (1) SCWR 627 The Nagar Rice and Flour Mills v/s N. Teekappa Gowda and Bros** *are relied on.*

ILR 1971 (1) Ker 350 Kunju Kunju, President Alleppey Co-operative Land Mortgage Bank Ltd v/s State of Kerala and others

Registration of Society Registrar must be satisfied that Society has complied with provisions of Act.

(Madras Co-operative Societies Act (6 of 1932) Section 65)

AIR 1955 NUC And 5832

EXEMPTION

Registrar granting exemption Sections 7 and 16 - Bye-law contrary to provisions of Section 16 but registered under Section 7 - Registrar cannot be demand to have granted exemption in reference to Section 16. - Co-operative Societies Rules, 1969 (Kerala), Rules 5 & 16.

If any one of the conditions set out in Section 7 is not in existence, the registration is liable to be cancelled. The satisfaction of the Registrar must be for compliance of the provisions of the Act. The presumption is that the society had complied with all the requirements set out under Section 7 If it is found at a later point of time that some of the bye-laws are contrary to the provisions of the Act, those provisions to that extent have to be declared as invalid in the light of Rule 5 read with Section 7 (1) (b) of the Act. The Government must be satisfied that it is necessary in the public interest, that the society or class of society can be exempted from the provisions of the Act. Thus, before granting exemption it may be found that there are materials and reasons and necessary to do so in public interest for the grant to exemption. Exemption cannot be inferred or deemed to have been granted in those circumstances.

1997 (1) KLT 589 = 1997 (1) KLJ 378 = AIR 1997 Ker 158 Abdual Gafoor v/s Joint Director

Notification of Exemption Co-operative Societies Act, 1969 (Kerala) - Section 101 - Notification exempting a Society from the provisions of Section 2 (2), 7 (1) (c) of the Act – If circumstances Justify and there is Public interest Court will not interfere under Article 226 of the Constitution. *In this judgment* **1994 (1) KLT 603 Joint Registrar v/s M.R. Cherian** *and* **1986 KLT 92 Pampady Rural Co-operative Housing Society v/s Joint Registsrar** *are relied on.*

ILR 1995 (2) Ker 640 = 1995 (2) KLT 404 Feroke Service Co-operative Bank Ltd v/s State of Kerala and others

Exemption and Area of operation Sections 101 and 7 (1) (c) - The power of the Government under S. 101 to exempt any society from any of the provisions of the Act is not in any way limited or curtailed by Section 7 (1) (c).

Section 101 of the Act empowers the Government to exempt any society or any class of societies from any of the provisions of the Act one the basis of public interest. Wide power is given to the Government under this Section taking into consideration to overall public interest it cannot be held that in a particular situation where public interest demands. Section 7 (1) (c) cannot be relaxed. The power under S. 101 cannot be used by the Government in a whimsical or arbitrary manner. Only in such cases where public interest demands the said power can be exercised. *In this case* **AIR 1980 SC 350 Registrar Co-operative Societies v/s K. Kunjambu** *is relied on.*

1995 (2) KLT 404 = 1995 (2) KLJ 333 = ILR 1995 (2) Ker 640 Feroke Service Co-operative Bank Ltd v/s State of Kerala

Overlapping of area of operation and Exemption: Section 7(1) and 101 - Overlapping of area - Exemption - validity - The power under Section 101 - of the Act cannot be invoked by the Government before it is satisfied by that it is in the public interest, which is different from that of a particular society. The fact that a particular society is running at a loss is no ground for exempting it from the provisions of the Act in public interest. The private interest of a particular society cannot be considered as a public interest. One of the conditions mentioned in Section 7(1) of the Act is that the area of operation of another society of similar type should not overlap, which is a condition precedent for a co-operative Society to come in to existence. A Co-operative society which has come in to existence after complying with the above conditions cannot be allowed to violate the same. The Government cannot exercise power under Section 101 in such a manner as to nullify the very condition, the compliance of which is mandatory for the society to come in to existence. The Power of The Government cannot be exercised to defeat such a salutary condition.

1989 (1) KLJ 209 = 1989 (1) KLT 350 = 1989 (1) KLN 5A NOC Quilon Taluk Labour Contract and Transporting Co-operative Society Ltd v/s State of Kerala and others

CERTIFICATE

Statutory body A society registered under the Co-operative Societies Act is not a statutory body.

AIR 1976 SC 888 Vaish Degree College v/s Lakshmi Narain

Conclusive evidence of registration Certificate of registration under Section 9 is conclusive evidence of registration.

(Rajasthan Co-operative Societies Act (13 of 1965), Section 9)

1974-75 (10) CLJ 45

Evidence to prove the registration Although a certificate of Registration when produced would be conclusive proof of the registration of a society under the Act yet it does not bar other evidence to prove the registration.

(Rajasthan Co-operative Societies Act (1965) Section 9)

1974 CLR HC Raj 342 Mandhi Khatikan Shrimik Theka Sahakari Samiti Ltd v/s The State of Rajasthan

Right of area of operation A valid grant of registration under the Act to a new Society to transact business in a locality already served by some other Society does not affect any legal right of that Society.

(Kerala Co-operative Societies Act, 1969, Sections 6 and 83)

ILR 1971 (1) Ker 350

Unregistered Society Loan incurred by Society - Personal liability.

(Section 19, Bengal Co-operative Societies Act (21 of 1940))

AIR 1961 Calcutta 393

ACT

[*S8A. **Affiliation to apex society :-** (1) Every Primary Co-operative Society or Central Co-operative Society may within such time and in such manner, as may be prescribed, apply for affiliation to the concerned apex society or Central Society as the case may be.

(2) Where the apex society or central society does not, within sixty days from the date of receipt of the application for affiliation, determine whether such affiliation should be given or not, such affiliation shall be deemed to have been given to the applicant society from the date on which the said period of sixty days expires."

(3) When the apex or Central Society, as the case may be, rejects an application for affiliation under sub-section (1), the aggrieved society may file an appeal before the Registrar against such rejection within thirty days from the date of receipt of the order of rejection and the Registrar shall dispose the appeal within sixty days from the date of appeal.]

RULES

[**R16E. **Application for affiliation to central or apex Societies :-** (1) An application for affiliation to the Central Society or apex society shall be in Form No. 31 of Appendix II of these rules and shall be submitted by registered post with acknowledgment due.

(2) The concerned central society or apex society shall dispose the application for affiliation as specified in sub-section (2) of section 8 A of the Act.

(3) Application for affiliation already made to central society or apex society before the commencement of these rules and on which no decision has been taken by the concerned apex society or central society, shall be deemed to have been submitted as per these rules.

(4) The societies whose applications for affiliation stand rejected on the commencement of the Kerala Co-operative Societies (Amendment) Act of 1999 shall have the right to appeal before the Registrar as per sub section (3) of section 8 A of the Act.]

FORM No. 31

(See rule 16E)

Application for affiliation to the Apex Society

1. Name of the Apex Society to which affiliation is applied for :
2. No. and name of the society :
3. Registered address and headquarters :
4. Order No. and date of Registration :
5. Date of commencement of functioning of the society :

*Inserted by Act 1 of 2000

** Inserted by SRO. No. 380/2000

6. Class of Society (Credit/Consumer/Marketing/ Housing etc.) (vide rule 16E) :
7. Area of operation :
8. Name of Panchayat/Panchayats to which its area of operation extends :
9. Total authorised Share Capital :
10. Total paid up Share Capital :
11. Working Capital as on.....(Share capital, deposits, borrowings and other funds less investments in building and other fixed assets) :
12. Objects of the Society :
13. Activities undertaken :
14. Date of last election to the Managing Committee :
15. Names of Managing Committee Members as on the date of application :
16. Name of the Co-operative Circle Office in which the Office of the society is located :
17. No. of shares and amount proposed to be taken :
18. Resolution No. and date of The Managing Committee (enclose copy) :

Signature of the President/Secretary

Certified that the particulars furnished above are correct. We shall agree to abide by the conditions and Bye-law provisions of the Apex institution.

President/Secretary

ACT

S9. Co-operative Societies to be bodies corporate :- The registration of a society shall render it a body corporate by the name under which it is registered, having perpetual succession and a common seal and with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

CASE LAWS

Statutory character The Society does not have any statutory character like the Oil and Natural Gas Commission, or the Life Insurance Corporation or Industrial Finance Corporation. It is a Society incorporated in accordance with the provisions of the Societies Registration Act. The fact that the Prime Minister is the President, or that the Government appoints nominees to the Governing Body or that the Government

may terminate the membership will not establish anything more than the fact that the Government takes special care that the promotion, guidance and co-operation of scientific and industrial research, the institution and financing of specific researches , establishment or development and assistance to special institutions or departments of the existing institutions for scientific study of problems affecting particular industry in a trade, the utilization of the result of the researches conducted under the auspices of the Council towards the development of industries in the country are carried out in a responsible manner.

(Section 10, 23 Bombay Co-operative Societies Act, 1925)

AIR 1981 SC 1395 = 1981 Cri LJ 871 = 1981 (3) SCC 431

No officer can act suo moto Co-operative Society registered under the Act - A body corporate - No Officer or Office holder can act on behalf of Co-operative Society suo moto as authorisation by a resolution of Co-operative Society to somebody to file an appeal on its behalf is necessary - Absence of any resolution authorising President to file appeal - Appeal liable to be dismissed.

(Section 4, Punjab Co-operative Societies Act, 1961)

1980 AI LLR 112

Public servants The officers and servants of co-operative societies are public servants for the purpose of the P.F.A. Act and also for the purpose of Indian Penal Code.

1977 KLT 133 = ILR 1977 (1) Ker 439 FB Kochudevassy v/s State of Kerala

Statutory body A society registered under the Co-operative Societies Act is not a statutory body.

AIR 1976 SC 888 Vaish Degree College v/s Lakshmi Narain

Writ by Chairman A writ petition filed by a society said to be represented by the named Chairman is maintainable.

AIR 1969 Manipur 84 Tronglaobi Pisciculture Co-operative Society Ltd v/s Chief Commissioner

Body corporate Status of a Co-operative Society registered under the Act, is a body corporate and is independent of its members.

(Orissa Co-operative Societies Act, 1962 (2 of 1968), Section 9 and 13)

ILR 1968 Cut 378 = 34 Cut LT 745 = STC 460

Local authority A Co-operative Society is not a local authority. Authorities meant by the phrase "Local Authority" are authorities which take part in the administration of a local democratic body in a local area. They are not like a self help society registered under the Co-operative Societies Act.

AIR 1967 ALL 121 DB Raj Kishore v/s Shobanath

Unregistered society Where the Secretary of an unregistered society incurred loans on promissory notes and the loans were utilised by the Society a suit by the creditor for the recovery of the money should be brought against

all the members of the society. If the creditor comes to Court with a false story that the Secretary took the amount for his personal necessity, he cannot say that the Secretary was personally liable as he is, also one of the members of the Society.

AIR 1961 Cal 393 Nalin Behari Roy v/s Bisewar Bhattacharya

Co-operative Society is a State Since a Co-operative Society registered under the Co-operative Societies Act is an association or authority of the members competent to make its bye-laws, it is included in the definition of "State" as described in Article 12 of the Constitution.

AIR 1961 MP 289 DB Co-operative Agricultural Association v/s DukhuRam

The liability of a Co-operative Society Unlike a partnership firm a registered Co-operative Society has an individual existence. It stands different from its members and has a definite existence. - The liability of a Co-operative Society duly registered cannot be equated to the liability of its members of its Managing Committee. Nor are the members of the Managing Committee competent to represent the Co-operative Society.

(Section 18, Co-operative Societies Act 1912)

AIR 1961 Ker 258 = 1960 KLT 1288 = 1960 KLJ 1442 Iswara Pillai v/s Narayana Pillai

AIR 1959 MP 218 Madhya Pradesh State v/s Ramanatha Sharma

Food Adulteration Where a salesman of a society delivers to a member for price, milk containing 12% water, he would be liable for an offence under the Prevention of Food Adulteration Act.

AIR 1948 Mad 329 Public Prosecutor v/s Ramachandrayya

To sue and to be sued A society can sue and be sued and when a decree is passed against a society as a corporate body, the decree holder has no remedy against the members in the individual capacity.

AIR 1934 Mad 181(2) South Kanara Central Co-operative Bank Ltd v/s Chikumudnur Co-operative Society Ltd

Sales tax The sale of goods by the society to its members for a price and at some profit attracts sales tax.

34 Cut LT 745 = 22 STC 460 Indal Employees' Co-operative Society Ltd v/s State of Orissa

Validity of repeal clause This section applies even to co-operative societies registered under other Acts prior to this Act in view of Section 110 (2) (ii) which provides that such societies shall be deemed to be registered under this Act. The incorporation of Co-operative Societies under this section cannot be impeached on the ground that the State Legislature is not competent to make such a law.

22 STC 460 = 34 Cut LT 745 Indal Employees' Co-operative Society Ltd v/s State of Orissa

ACT

S10. Change of Name of society :- (1) A society may, by an amendment of its bye-laws, change of its name.

(2) Where a society changes its name, the Registrar shall enter the new name in the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly.

(3) The change of name of a society, shall not affect any rights or obligations of the society or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

S11. Change of liability :- (1) Subject to the provisions of this Act and the rules a society may, by an amendment of its bye-laws, change the form or extent of its liability

(2) When a society has passed a resolution to change the form or extent of its liability it shall give thereof in writing to all its members and creditors and notwithstanding the provisions of Section 24 or any bye-laws or contract to the contrary, any member or creditor shall, during a period of two months from the date of service of notice upon him, have the option of withdrawing his shares, deposits of loans, as the case may be.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have given his assent to the change.

(4) An amendment of the bye-laws of a society changing the form or extent of its liability shall not be registered or take effect until either-

(a) the assent thereto all members and creditors has been given or deemed to have been given; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

RULES

R12. Procedure regarding change of liability :- Without prejudice to rule 9 no amendment to the bye-laws of a society changing its liability from un-limited to limited under Section 11 shall be registered unless;

(i) the amendment has been approved by a resolution passed by a 2/3 majority of the members present and voting at a meeting of the general body specially called for the purpose of which at least seven clear days' notice has been given to all its members; and

(ii) the claims of all the members and creditors who have exercised the option referred to in clause (b) to sub-section (4) of that section within the period specifiled therein have been satisfied.

CASE LAWS

Change of share value Section 11 - The increase of share value by amendment to the bye-laws of a society would come under Section 11(2) and so all the members should be given separate notice calling up on them to pay the increased share value cannot be accepted as the above provision is not really intended to meet such a situation. That can be easily discerned from the provisions in Chapter III of the Act which concerns the members of the Co-operative Societies and their rights and liabilities.

1993 (1) KLJ 280 Balakrishnan and another v/s Returning Officer and others

RULES

R5. Subject matter of bye laws :- (1) The bye-laws of a society shall not be contrary to the provisions of the Act and these Rules and may deal with all or any of the matters specified below and with such other matters incidental to the organisation of the society and the management of its business, as may be deemed necessary;-

(a) the name and address of the society and its branches if any;

(b) the area of operation;

(c) the objects of the society;

(d) the manner in which and the limit upto which the funds of the society may be raised, the maximum share capital which one member may hold and the purpose to which the funds would be made applicable;

(e) the terms and qualifications for admission to membership, the payment, if any to be made or interest to be acquired as a condition precedent for exercising the right of membership;

(f) the privileges, rights, duties and liabilities of members including nominal and associate members;

(g) the nature and extent of the liability of the members for the debts contracted by the societies;

(h) the circumstances under which withdrawal from membership shall be permitted, the manner in which penalty shall be levied on members found to be guilty of breach of bye-laws;

(i) the consequences of default in payment of any sum due by a member;

(j) conditions regarding sale or disposal of produce of members, wherever applicable;

(k) the procedure for expulsion of members and as to how the assets and liabilities of an expelled member shall be dealt with;

(l) the manner of making, amending and repealing bye-laws;

(m) the constitution and reconstitution of the committee and removal of the officers and the duties and powers of the committee and the officers;

(n) the mode of custody and investment of funds and mode of keeping the accounts and records. The preparation and submission of such annual or order statements as specified in these rules and the publication of the same;
(o) the disposal of net profit;
(p) appointment of a provisional committee wherever necessary;
(q) the mode of convening annual and special general body meetings, issue of notices, and the business which may be transacted there at;
(r) in the event of winding up of the society, the purpose for which surplus assets, if any, shall be utilised;
(s) the conduct of elections to the committee and other bodies of the society as provided in the bye laws, including the right of members to be elected by different constituencies and appointment of Returning Officer;
(t) affiliation to the State Co-operative Union, Financing Bank or any other institution and the charges to be paid in respect of such affiliation;
(u) the procedure to be followed in cases of withdrawal, ineligibility and death of members;
(v) the conditions if any, under which the transfer of share or interest of a member may be permitted;
(w) the method of appropriating payments made by members from whom moneys are due;
(x) the authorisation of an officer or officers to sign documents and to institute and defend suits and other legal proceedings on behalf of the society;
(y) the constitution and maintenance of various funds as required to be maintained under the provisions of the Act, Rules and bye-laws;
(z) constitutions of representative general body consisting of delegates of members of the society and the mode of election of representatives to exercise the powers of the general body of members and to specify the powers which may be exercised by such similar body;
(aa) the settlement of disputes touching the constitution of the Committee or the management or the business of the society falling within the purview of Section 69; and
(ab) procedure regarding valuation of shares for the purpose of refund of shares.

(2) In the case of Credit Societies;
(i) the maximum loan admissible to a member;
(ii) the maximum rates of interest on loans to members;
(iii) the conditions on which loans may be granted to members and to members of Managing Committee and penalties for misapplication of loan so advanced;
(iv) the procedure for granting extension of time for the repayment of loans and advances;

(v) the consequences of default in payment of any sum due;

(vi) the circumstances under which a loan may be recalled;

(vii) matters referred to in sub-rule (1).

(3) (i) In the case of non-credit societies, the mode of conducting business such as manufacture, purchase, sale, stock-taking and other like matters;

(ii) Matters referred to in sub-rule (1).

(4) In the case of composite society, that is to say, society having both credit and non-credit functions, matters referred to in sub-rules (1), (2) and (3).

CASE LAWS

Bye-law contrary to Act Bye-law contrary to provisions of Section 16 but registered under Section 7 Registrar cannot be deemed to have granted exemption in reference to Section 16 - Section 7 of the Act read with Rule 5 of the Rules mandates that no bye-law can be registered if it is against the provisions of the Act and Rules. In the light of this categorical and clear position of law, it may not be possible to infer that even though the bye-law in question is contrary to the provisions of the Act and Rules, the Registrar is deemed to have granted exemption in reference to Section 16 and Rule 16 of the Act and Rules. The registration by itself does not validate anything done contrary to the Act and Rules. If it is found that at a later point of time some of the bye-laws are contrary to the provisions of the Act, those provisions to that extent have to be declared as invalid in the light of Rule 5 read with Section 7 (1) (b) of the Act. *In this judgment the unreported decision in* **O.P. 4138 of 1996** *is relied on.*

1997 (1) KLT 589 = 1997 (1) KLJ 378 = AIR 1997 Ker 158 Abdul Gafoor v/s Joint Director

Articles of association The bye-laws of the Co-operative Society are in the nature of articles of association of a company incorporated under the Companies Act binding between persons affected by them; though not having the force of a statute.

1990 (1) KLT 530 = ILR 1990 (3) Ker 1064 = 1990 (1) KLJ 477 Janardhanan v/s Joint Registrar

Filling up of vacancies Filling up of vacancies to the Committee to the extend which has not been specifically provided for in the Act and Rules has to be done in accordance with the Provisions contained in the bye-laws of the Society.

1984 KLT 325

Aims and objects The fields upon which bye-laws can be made by a Society includes aims and objects as well as rights and liabilities of members.

Co-operative Societies Act, 1912, Section 43

1971 UP TC 813 = 1973 (1) ILJ 84

Non-approval of some rules Gratuity Fund Rules sanctioned by Board of Directors - All Rules except Rules 6, 10 and 15 given approval by Registrar - Non-approval does not render remaining rules.

(Maharashtra Co-operative Societies Act (24 of 1961), Section 8)

AIR 1970 SC 1966 = 1970 (2) SCJ 314 = 1970 (6) CLJ 144 = 1970 (2) SCR 192

Board of Directors are the best judges When the Bye-laws of a Co-operative Society confer upon the Board of Directors the power to call Annual General Meeting, the intention of the Bye-laws obviously is that the Board of Directors are the best judges to convene the meeting on a date which is convenient and in the interest of the Society.

(Co-operative Societies Act, 1912, Section 43 (f))

1967 All LJ 1919 = 1968 (1) Com LJ 21

RULES

R6. Model Bye-laws :- (i) It shall be competent to the Registrar to frame bye-laws for each class or classes of societies and to suggest modifications thereto from time to time;

(ii) Such model bye-laws shall be adopted by a society with such modifications, if any, as may be suggested by the society and agreed to by the Registrar.

R7. Period within which societies shall commence working :- Every society shall commence working within a period of six months of its registration. The Registrar may give further extension not exceeding six months if in his opinion such extension is necessary.

Explanation:- For the purpose of this rule the society shall be deemed to have commenced working if it has held the first general body meeting after its registration and admitted members and has allotted shares.

R8. First General Body Meeting :- (1) Within three months from the date of registration of a Society the Chief Promoter thereof, shall convene the first General Body Meeting of all persons who had signed the application for registration of the society. Where the Chief Promoter fails to convene the meeting as aforesaid, it shall be convened by any person authorised in that behalf by the Registrar.

(2) At the first general body meeting, the following business shall be transacted;

(i) Election of a President for the meeting;

[*(iA) Reading and recording of the registered bye-laws of Society.]

(ii) Admission of members and allotment of shares;

(iii) Receiving a statement of accounts and reporting all transactions entered into by the Chief Promoter;

(iv) Passing budget for the working of the society for the year, if any;

(v) Any other matters connected with the working of the society.

* Inserted by SRO.No. 1317/90

S12. Amendment of bye-laws of a Society :- (1) No amendment to any bye-law of a society shall be valid unless such amendment has been registered under this Act.

(2) The provisions of section 7 specifying the conditions to be satisfied before registration of bye-laws of a society by the Registrar shall, mutatis mutandis, apply also to the registration of amendments to bye-laws;

Provided that the Registrar shall before registering an amendment of any bye-laws consult-

(a) The State Co-operative Union if the bye-laws to be amended are that of an apex society or a central society; or

(b) the circle co-operative union if the bye-laws that are to be amended are that of any other society; and

(c) the financing bank if the society is indebted to the financing bank.

(3) The Registrar shall forward to the society a copy of the registered amendment together with a certificate of registration signed and sealed by him, and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Registrar refuses to register an amendment of the bye-laws of a society, he shall communicate the order of refusal, together with the reasons thereof, within seven days of the order to the society.

[*(4A) An application to register an amendment of the bye-laws of a society shall be disposed of by the Registrar, within ninety days from the date of receipt of the same.

(4B) Where an application to register an amendment of the bye-laws of a society is not disposed within the time specified in sub-section (4A), the society may make a representation:-

(a) before the Registrar of Co-operative Societies, if the application to register the amendment of the bye-laws is made to a person on whom the powers of the Registrar is conferred under sub-section (2) of Section 3 or

(b) before the Government if the application for registration of the amendment of the bye-laws is made before the Registrar,

and the Registrar or the Government, as the case may be, shall within sixty days from the date of receipt of such representation, issue directions to the authority concerned, to dispose of the same.]

(5) Notwithstanding anything contained in this Act or the rules or bye-laws, if the Registrar is satisfied that for the purpose of altering the area of operation of a registered society or for the purpose of improving the services rendered by it, an amendment of the bye-laws of a society is necessary or desirable, he may, after consulting the financing bank, if any, to which the society is affiliated and the circle co-operative union by order in writing, require the society to make the amendment

* Inserted by Act 1 of 2000

within such time as may be specified in such order or within such further time as he may grant for the purpose.

(6) If within the time specified under sub-section (5), the society fails to make the amendment, as required by the Registrar or with such further changes as he may agree to, the Registrar may, after giving the society an opportunity for making its representations, register the amendments as required or agreed to by him and issue to the society a copy of such amendments together with a certificate of registration signed and sealed by him, and thereupon such amendment shall be binding on the society and its members.

(7) The provisions of sub-section (4) of Section 11 shall not apply when action is taken under sub-section (5) and (6) of the section.

RULES

R9. Procedure Regarding Amendment of Bye-laws :- (i) Every proposal for amendment to the bye-laws of a society shall be made only by a resolution passed by a 2/3 majority of the members present and voting. Such resolution shall be forwarded to the Registrar within one month from the date of the General Body meeting at which such amendment was passed provided that the Registrar may condone the delays, if any, for sufficient cause.

[*(ii) No such resolution shall be valid, in the case of a society having not more than two thousand members, unless intimation of the amendment proposed has been given to the members of the society either in person and their full signature in token of having received the same has been obtained, or by post under certificate of posting and in other cases, it shall be sufficient if the date, time, place and agenda of such General Body meeting with details of the amendment proposed are published in two vernacular dailies having wide circulation in the area of the operation of the society, in the notice board of the society, at the head office and branches and also in the notice board of the office of the Assistant Registrar of Co-operative Societies of the circles within which the area of the operation of the society falls.]

(iii) Every application made to the Registrar for the registration of amendment shall be signed by the Secretary and two members of the Committee and shall contain the following particulars,-

(a) the date of the general body meeting at which the amendment was made;

(b) the number of days' notice given to convene the general body meeting;

(c) the number of days notice required as per the bye-laws for the General Body Meeting;

(d) the total number of members of the society on the date of such meeting;

(e) the number of members who formed the quorum for such meeting;

(f) the number of members present at such meeting;

(g) the number of members who exercised their votes at the meeting; and

* Substituted by SRO. No. 1609/92

(h) the number of members who voted for the amendment.

(iv) The proposal shall be accompained by,-

(a) a copy of the relevant bye-laws in force with amendments proposed to be made in pursuance of the resolution, together with reasons justifying such amendments.

(b) for copies of the text of the bye-laws as it would stand after amendment, signed by the officers authorised in this behalf by the committee of the society.

CASE LAWS

Rejection of proposed amendment Section 28 – Rejection of proposed amendment by General Body – Amendment to the bye-laws extending the term of Managing Committee before expiry of the period – Benefit of extension is available to existing Board of Directors.

When the period had been extended before the expiry of the period, the benefit of the extension was available to the existing Board of Directors also. The Joint Registrar, after careful examination held that the Board of Directors were entitled to the benefit of the amendment.

2003 (1) KLT 675 John v/s Amballur Service Co-operative Bank Amendment of bye-laws

Retrospective amendment Section 12 - The bye-laws of a Co-operative Society can be amended retrospectively to enable the society to increase its share capital and regularise the admission of persons as members of the society from the date of their admission.

A co-operative society is not different from a company. The only limitation on the power of the general body to amend its bye-laws, either retrospectively or prospectively, is that it should conform to the requirements of Section 11 of the Act. An amendment comes into force on the date on which it is registered by the Registrar under Section 7 of the Act. But, in extra ordinary circumstance, it is for the general body to frame the bye-laws with retrospective effect and there will be no jurisdiction for the Registrar not to register the bye-laws with retrospective effect. The amendment should conform to the provisions of the Act and the Rules and must be made bona fide and in the interest of the society. *In this case* **1993 (1) KLT 538 Sekharan v/s Joint Registrar** *is relied on.*

1996 (1) KLT 27 = 1996 (1) KLJ 66 = ILR 1996 (2) Ker 97 Antony v/s Irinjalakuda Town Co-operative Bank Ltd

Increasing the share capital Co-operative Societies Act, 1969 (Kerala) - Section 13 read with Rule 9 - General Body of a Society can bring Amendment to its bye-law increasing its share capital with retrospective effect - It must conform with Act and Rules, and must be bonafide and in the interest of Society. *In this judgment* **1990 (1) KLT 530 Janardhanan v/s Joint Registrar, 1900 (1) Ch 656 Allen v/s**

Gold Reefs of West Africa Ltd, 1920 (1) Ch 154 Sidebottom v/s Kershaw Leese and Co., 1893 (2) Ch 311 Pepe v/s City and Suburban Permanent Building Society *and* **AIR 1970 SC 245 Co-operative Central Bank Ltd v/s Additional Industrial Tribunal, Andhra Pradesh, Hyderabad and others** *are relied on and* **73 Company Cases 80 Mathrubhumi Printing and Publishing Company Ltd v/s Vardhaman Publishers, 1987 (2) KLT 903 FB Bhaskaran v/s Additional Secretary** *and* **1992 (2) KLT 955 Devadas v/s Administrator** *are referred to.*

ILR 1993 (3) Ker 56 = 1993 (1) KLJ 480 =1993 (1) KLT 538 Sekharan and another v/s Joint Registrar of Co-operative Societies and others

Amendment of bye-laws: Section 11 - The increase of share value by amendment to the bye-laws of a society would come under Section 11(2) and so all the members should be given separate notice calling up on them to pay the increased share value cannot be accepted as the above provision is not really intended to meet such a situation. That can be easily discerned from the provisions in Chapter III of the Act which concerns the members of the Co-operative Societies and their rights and liabilities.

1993 (1) KLJ 280 Balakrishnan and another v/s Returning Officer and others

Permissive sanction Whether Registrar can grant permissive sanction for amending the bye-laws without following the procedure laid down in Section 12 - Any proposal for amendment at the instance of the society must have the sanction of its general body; as prescribed in Rule 9. Any amendment at the instances of the Registrar has to comply with the prescription of sub-section (5) and (6) of S.12. No other mode of amendment is prescribed or permitted. The general body is given due supremacy in the matter of administration of the society, having regard to the democratic process.

1990 (1) KLT 530 = ILR 1990 (3) Ker 1064 = 1990 (1) KLJ 477 Janardhanan v/s Joint Registrar

Share capital and share value Amendments to bye-laws regarding share capital and share value duly registered by Registrar - Validity cannot be changed by any member on the ground of procedural defects in holding meeting.

1981 KLT 779 Lakshmanan v/s Varkala Cane Industries Co-operative Society Ltd

Consultation with other societies Before amending bye-laws of one Society the departmental authorities are not required to consult any other society.

(Tamil Nadu Co-operative Societies Act (53 of 1961), Section 12)

1972 (8) CLJ 68 Mad

Amendment only by registering Bye-law can only be amended by registering the amendment with the, Registrar.

(Tamil Nadu Co-operative Societies Act (53 of 1961), Section 2(1))

1972 (2) Lab LN 412 Mad = 1979 (55) FJR 270

Effect of absence of registration Amendment of Bye-laws - Proposal for

amendment - Absence of registration - Effect. Held, that it is quite clear that mere despatch of a proposal unless the Registrar receives the amendment and actually registers it, it cannot take effect. Besides, it is descretionary with the Registrar whether he would register a proposed amendment. It is not incumbent on him to register - Every amendment communicated to him by a Society. The amendment which is not properly registered, cannot be taken notice of.
(Section 10, Punjab Co-operative Societies Act, 1961)
1972 RLR 78

Despatch of a proposal for amendment Mere despatch of a proposed amendment of a bye-law to the Registrar does not constitute its registration. Unless the Registrar receives the amendment and actually registers it, it cannot take effect.
1971 (73) PLR 915 Harjit Singh Ahluwalia v/s State of Punjab

Co-operative movement The amendments in bye-laws are not contemplated in the interests of workmen or for purpose of resolving industrial disputes, but in the interests of the Society or the co-operative movement.
(Andhra Pradesh Co-operative societies Act. 1964, Section 16 (5))
AIR 1970 SC 245 = 1970 (1) Mad LJ SC 68 = 1970 (1) Andh WR SC 68 = 40 Com Cas 206 Co-operative Central Bank Ltd v/s Additional Industrial Tribunal

Appeal against the order registering bye-laws Where no appeal was filed against the order registering bye-laws, the order of the Registrar becomes final. But the validity of the bye-law, can still be challenged.
AIR 1967 Bom 7 Ompraksh Gowardhandas v/s Koimatlur

Old members and increase of share value Old members of the Union could not legitimately object to the revision of the bye-laws by the Registrar under Section 26(2) increasing the value of the shares. The new bye-laws are valid and binding upon the old members.
(Bihar and Orissa Co-operative. Societies Act, 1935, Section 26)
ILR 38 Pat 998 = 1959 Pat LR 175 = 1959 BLJR 468

When no notice is given Amendment of bye-law - No notice given - Registration of amended bye-law is invalid.
(Madras Co-operative Societies Act (6 of 1932), Section 12(3))
AIR 1955 Mad 267 = ILR 1955 Mad 960 = 1956 (1) Mad LJ 284

Legality of an amendment Where the questions is not one regard to the legality of any amendment or the rule but merely raising a point of irregularity in a matter intra vires of the Society, the registration of the amendment or the rule by the Registrar is conclusive.
1954 (2) MLJ 24 = AIR 1954 Mad 955 Venkatasubba Reddiar v/s Registrar

Five days' notice Where according to a bye-law five days' notice was necessary for an official amendment, but it was moved at the meeting without any prior notice, the amendment, must be treated as irregularly effected.
1954 (2) MLJ 24 = AIR 1954 Mad 955 Venkatasubba Reddiar v/s Registrar

When resolutions are Ultra vires Where resolutions were passed by the General Body of a society, believing them to be not amendment to the bye-laws and the Registrar intimated the Secretary that these resolutions were ultravires the bye-laws, a writ of certiorari to quash the orders of the Registrar is not available.

1953 (2) MLJ 584 = AIR 1954 Mad 348 Kandaswami v/s Deputy Registrar

Discretion of Registrar Amendment of Bye-law - Procedure - No amendment can be effective unless actually registered under the Act - It is the discretion of Registrar to register proposed amendment.

(Section 10, Punjab Co-operative Societies Act, 1961)

73 PLR 915

RULE

R10. Manner of calling upon societies to make or amendment the bye-laws:- (1) The order to be issued under sub-section (5) of the Section 12 shall be in Form No.5 and the notice calling for representation under sub-section (6) of section 12 shall be in Form No.6.

(2) Rule 9 shall not apply when action is taken under this rule.

FORM No.5

[See Sub-rule (1) of rule 10]

Order under rule 10(1)

By Registered Post/AD

To

The President

.....Co-operative Society

.....

Sir,

It appears to me that an amendment/amendments of the bye-laws of your society as indicated in the attached statement is/are necessary and that it/those is/are desirable in the interest of your society.

I am to request you to consider this/these amendment/amendments in the interest of your society and to call upon you by this order under rule 10(1) of the Kerala Co-operative Societies Rules, 1969 to take necessary steps to make the amendments to the bye laws of your society within two months from the date of receipt of this order failing which action will be taken as provided under section 12 (6) of the Kerala Co-operative Societies Act, 1969.

Yours faithfully,

No.

Date: (Seal of the officer) **Registrar of Co-operative Societies**

Statement accompanying order under rule 10(1)

Sl.No.	The exact wording of existing bye laws	Bye law as it would read after amendment	Exact wording of bye laws, if it is a new one	Reasons why amendment is considered necessary

Registrar of Co-operative Societies

FORM No.6
Notice Under Rule 10 (1)

To

The President,
.....Co-operative Society,
.....

Sir,

Where you were called upon to make amendment to the bye-laws of your society as per this office order No.....dated.....and whereas you have failed to make the amendment within the time specified therein, you are hereby called upon to show cause in writing within .....days from the receipt of this notice as to why the proposed amendment of your bye laws as indicated in this office notice referred to above should not be registered. If you desire to be heard in person, you may attend or send your representative duly authorised on .....at .....a.m./p.m. in my office and put your defence before me, if any.

If you fail to send your written statement or your representative on the date specified above and if your statement is found unsatisfactory if necessary, further action according to the provisions of Section 12 (6) of the Kerala Co-operative Societies Act, 1969 will be taken.

No. Yours faithfully
Date :
Place: (Seal of the Officer) **Registrar of Co-operative Societies**

CASE LAWS

Altering the area of operation Section 7 and 12 - Merely based on the Government circular, the Registrar cannot issue directions to the existing societies to alter their area of operation and carry out necessary amendments in the Bye-laws - It is for the members to decide such matters.

The exercise of power is subject to further conditions of consulting the financing bank and Circle Co-operative Union. If such lawful directions are not carried out, under sub-section (6) of Section 12 of the Act the Registrar is empowered, after giving the society an opportunity for making its representations, register the amendments.

Unless the general body decides for alteration of the area of operation, the same cannot normally be done. In a situation where the general body decides to alter the area of operation, then it is for the Registrar to consider whether an amendment of the Bye-laws is necessary for altering the area of operation. It is significant to note that under sub-section (6) of Section 12 of the Act, even if the society fails to make an amendment as directed in sub-section (5), the Registrar has to give the society an opportunity for making its representations and then alone register the amendments as required or agreed to by him. These expressions unambiguously make the intention of the Legislature clear that ultimately it is for the members of a society to decide the area of operation of their society subject to the restrictions under Section 7 of the Act. No doubt, being not in conflict with any of the provisions of the Act or Rules and being intended only to provide for the orderly functioning of the Societies, the Circular dated 26.5.1997 is valid but only prospectively.

2002 (3) KLT 193 Pallimon Ksheera Ulpadhaka Co-operative Society Ltd v/s Deputy Director, Dairy Development Office

Nomination Section 12 (5) and (6) - the amended provision in Section 31 of the Act empowers the Government to have its nominees on the committees of certain apex or central bodies. Such nominees cannot exceed three or 1/3 of the total number of members of the committee. The majority is left in favour of the elected members keeping in tact the democratic set-up of management of the societies envisaged by the Act. Whatever may be the extent to the interest which the Government is having in the society, neither the Government nor any other authority functioning under Sub-section (5) of Section 12 of the Act for the purpose of conferring effective control of the administration of the society on the Government with a view to safeguard the interest of the Government.

1994 (2) ILR SN 64 V.V. Samuel v/s State of Kerala and others

Directions of the Registrar mandatory Co-operative Societies Act, 1969 (Kerala) - Section 12 - Amendment of byelaws of the Society by the Registrar when the Society failed to comply with the directions to make amendment provisions are mandatory and as there is no compliance with the same the Amendment is bad. *In this judgment* **AIR 1971 SC 33 Hirday Narain v/s Income Tax Officer, AIR 1957 SC 912 State of U.P. v/s Manbodhan Lal** *and* **1990 (1) KLT 530 Janaradhanan v/s Joint Registrar** *are relied on.*

ILR 1991 (3) Ker 709 M. Rasheedkutty and another v/s The Joint Registrar of Co-operative Societies and another

Consultation with the financing bank and the Circle Co-operative Union Section 12 - It is not possible for the first respondent Joint Registrar to exercise power under Section 12 (5) of the Act without complying with the conditions therein. As per Section 12 (5) of the Act, the consultation should be with the financing bank, if any, to which the society is affiliated with and the Circle Co-operative Union. Section 2 (j) defines, the financing bank as a Co-operative Society having as its members only

other co-operative societies and the main object of which is to money and lend the sum to its members. In the light of the definition of financing bank under Section 2 (j) and the document is affiliated with the Quilon District Co-operative Bank Ltd. Since there is non consultation with the bank and since the consultation with the Circle Co-operative Union was after issuing the order and the proceedings, are liable to be quashed.

1991 (3) ILR 709 M. Rasheedkutty and another v/s The Registrar of Co-operative Societies

Compliance with the Procedure Co-operative Societies Act, 1969 (Kerala) - Section 12 and Rules 9 and 10 - Amendment of Bye- Laws of a Society – Must have the sanction of its general body – Any Amendment at the instance of the Registrar has to comply with the prescription of Sub-sections (5) & (6) of Section 12. No other mode of Amendment is prescribed or permitted- The Registrar cannot bypass these provisions by resort to Section 66 (5). The general body is given due supremacy in the matter of administration of the society, having regard to the democratic process. *In this judgment* **AIR 1972 SC 1242 Haridwar Singh v/s Bagum Sumbrui, 1876 (3) Ch D 659 Stepens, ex parte, AIR 1936 PC 253 Nazir Ahmed v/s King Emperor, AIR 1963 SC 1077 Patna Improvement Trust v/s Shninati Lakshmi Devi, AIR 1970 SC 245 Co- operative Central Bank Ltd v/s Additional Industrial Tribunal, 1938 (3) All ER 214 Beatt v/s Beattie Ltd** *and* **1971 KLT 318 Ernakulam Mills Ltd v/s State of Kerala** *are relied on.*

ILR 1990 (3) Ker 1064 = 1990 (1) KLJ 477 = 1990 (1) KLT 530 A.K. Janardhanan v/s Joint Registrar of Co-operative Societies Kannur and others

Share capital and share value Amendments to bye-laws regarding share capital and share value duly registered by Registrar - Validity cannot be challenged by any member on the ground of procedural defects in holding meeting.

1981 KLT 779 Lakshmanan v/s Varkala Cane Industries Co-operative Societies Ltd

suspending a bye-law So long as a Bye-law is not inconsistent with the parent Act, it cannot be suspended by the Registrar.

(Andhra Pradesh Co-operative Societies Act, 1964, Section 16)

1981 (1) Serv LR 142 = 1980 (2) Andh WR 431

Validity of order of the Registrar Registrar issuing notice to Society to amend bye-laws - Registrar by order under Section. 12(2) registering proposed amendment on failure of Society to do so - Order is valid and binding on Society.

(Madhya Pradesh Co-operative Societies Act, 1961, Section 12)

AIR 1980 MP 84 = 1980 MP LJ 223

Completely eliminating or wiping off a Society The power of the Registrar to effect compulsory amendment to bye-laws of society in such manner so as to destroy the society in its existing form and to constitute a new one on its place.

The power does not extend to or include the power to completely eliminate or wipe off a class of members constituting part and parcel of the body of the society.

1979 KLT SN 41 James v/s State

Ultimate power and control in Registrar Co-operative Society which is formed only for promoting economic interest of its members - Can be registered under the Act - Registrar acts as mentor and can direct amendment of Bye-law of Co-operative Society which are in conflict with the provisions of Act and Rules - Ultimate power and control vests in Registrar - General Body or Managing Body of Co-operative Society does not possess unlimited authority.

(Section 23 (1), Punjab Co-operative Society Act, 1961)

1976 PLJ 491

Where bye-laws are inconsistent Registrar's power under to amend, delete or add to the bye-laws arises only where the bye-laws are inconsistent with this Act or rules.

(Uttar Pradesh Co-operative Societies Act (11 of 1966), Section 131 (a))

1973 All LJ 942

Personal hearing Order amending bye-laws passed without giving of personal hearing - No violation of principles of natural justice.

(Co-operative Societies Act, 1912, Section 11-A (as inserted by U.P. Act X of 1957)

1969 All LJ 304

Appeal Where no appeal was filed against the order registering bye-laws, the order of the Registrar becomes final. But the validity of the bye-law, can be challenged.

AIR 1967 Bom 7 Omprakash Gowardhandas v/s Koimatlur

Opportunity to the Society to amend its bye-laws The failure of the Registrar to give an opportunity to the Society in amending its bye-laws vitiates his order.

AIR 1958 Bom 330 Telanghadi Co-operative Dairy Society Ltd v/s Deputy Registrar

Legality of an amendment Where the question is not one in regard to the legality of any amendment or the rule but merely raising a point of irregularity in a matter intra vires of the Society, the registration of the amendment or the rule by the Registrar is conclusive.

1954 (2) MLJ 24 = AIR 1954 Mad 955 Venkatasubba Reddiar v/s Registrar

RULES

R11. Registrar to keep a Record of Names, Address and Bye-laws of Societies :- (1) A Register in Form No.4 showing the number, name and address of all societies registered under this Act and the date on which its bye-laws or the amendments thereto are registered.

(2) A copy of each of the bye-laws of the Societies registered by him, the amendments to bye-laws as and when registered should be filed along with the original bye-laws.

ACT

S13. When amendment of bye-laws come into force :- An amendment of the bye-laws of society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

S14. Amalgamation, transfer of assets and liabilities and division of society :- (1) A society may, with the previous approval of the Registrar and by a resolution passed by a two third majority of the members present and voting at a general body meeting of the society;

(a) transfer its assets and liabilities in whole or in part to any other society;

(b) divide itself into two or more societies.

(2) Any two or more societies may with the previous approval of the Registrar and by a resolution passed by a two-third majority of the members present and voting at a general body meeting of such society, amalgamate themselves and form a new society.

(3) The resolution of a society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be.

(4) When a society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, notwithstanding the provisions of section 24 or any bye-law or contract to the contrary, any member, or creditor shall, within a period of two months from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have given his assent to the proposals contained in the resolution.

(6) A resolution passed by a society under this section shall not take effect until either-

(a) the assent thereto of all the members and creditors has been given or deemed to have been given; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein have been met in full.

(7) Where a resolution passed by a society under this section involves the transfer if any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

(8) (i) Where, in the opinion of the Registrar, the amalgamation of two or more societies is necessary or desirable for increasing their strength or usefulness he may, after consulting, in the manner prescribed, the financing bank to which the societies are affiliated and the circle co-operative union, call upon such societies to amalgamate within such time as may be specified by him into one society in accordance with the provisions of sub-sections (2) to (7).

(ii) If the societies fail to amalgamate into one society within the time specified by the Registrar, he may, after giving an opportunity to the committee of each of the societies, to state its objections, if any, direct the amalgamation of the societies into one society.

(iii) Every society so directed shall, within one month of the receipt of the Registrar's direction, give notice of the direction of all its members and creditors.

(iv) (a) Any member of any of the societies so directed may, notwithstanding the provisions of section 24 or any bye-law to the contrary by notice given to the society of which he is a member, within a period of two months from the date of receipt by him of the direction, intimate his intention not to become a member of the new society and shall have the option of withdrawing his shares, deposits or loans, as the case may be.

(b) Any creditor of any of the societies so directed may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within a period of two months from the date of receipt by him of the direction, demand a return of the amount due to him.

(v) Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have given his assent to the amalgamation.

(vi) After the repayment of the share capital of the members and the discharge of the claims of the creditors, if any, under clause (iv) by the societies directed to be amalgamated or after a majority of the members and creditors of such societies have given their assent to the amalgamation, the Registrar may register the new society. On such registration, the registration of the old societies shall be deemed to have been cancelled. The registration of the new society shall be a sufficient conveyance to vest in it all the assets and liabilities of the original societies.

(9) (i) Where, in the opinion of the Registrar it is desirable for increasing the usefulness of a society by restricting the area of its operation, he may, after consulting, in the manner prescribed, the financing bank, if any, to which the society is affiliated and the circle co-operative union, by order call upon the society to divide itself into two or more societies within such time as may be specified in the order in accordance with the provisions of sub-sections (2) to (7).

(ii) If the society fails to divide itself within the time specified to state its objections, if any, by order direct the division of the society into two or more societies. The order of the Registrar shall contain directions for the division of the assets and liabilities of the society among the new societies into which it is directed to be divided and may specify the area of operation or, and the members who will constitute, each of the new societies. The proposed bye-laws of the societies shall be annexed to the order.

(iii) The society shall, within one month of the receipt of the order of the Registrar, give notice of the direction to all its members and creditors.

(iv) Any member of the society may, notwithstanding the provisions of section 24 or any bye-law to the contrary, by notice given to the society within a period of two

months from the date of receipt by him of the direction, intimate his intention not to become a member of any of the new societies and shall have the option of withdrawing his shares, deposits or loans, as the case may be.

(v) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the period referred to in clause (iv), demand a return of the amount due to him.

(vi) Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have given his assent to the division in the manner specified in the order of the Registrar under clause (ii).

(vii) After the repayment of the share capital of the members and the discharge of the claims of the creditors, if any, under clauses (iv) and (v) by the society directed to be divided or after a majority of the members and creditors of the society have given their assent to the division, the Registrar may register the new societies. On such registration, the registration of the old society shall be deemed to have been cancelled. The registration of the new societies shall be sufficient conveyance to vest in the new societies all the assets and liabilities of the old society in the manner specified in the order of the Registrar under clause (ii).

RULES

R13. Amalgamation, transfer of assets and liabilities or division of societies :- (1) Every society desiring to effect amalgamation, transfer of assets and liabilities, or division shall make an application to the Registrar in that behalf giving full details of such amalgamation, transfer or division as the case may be.

(2) The Registrar may after examining the details furnished in the application and other particulars which he may call for from the society, give his approval, for the proposals, if it appears to him to be in the best interest of the society or societies concerned;

Provided that in the case of transfer of Assets and Liabilities under sub-rule (1), the concurrence of the transferee society shall be obtained before giving such approval.

(3) On receipt of the approval to the proposals, from the Registrar, the society shall convene a meeting of a special general body, called for the purpose, giving 15 clear days' notice and pass a resolution for amalgamation, transfer of assets and liabilities or divisions as the case may be two third majority of the members present and voting at that meeting. In the case of amalgamation or division the resolution shall include the draft bye-laws proposed for adoption; consequent on the approval of the proposals referred to in sub-rule (2). In the case of amalgamation, the draft bye-laws shall also include provision for appointment of its committee by nomination.

(4) When the resolution so passed is deemed to have been taken effect under sub-section (6) of Section 14 the society concerned shall report the fact to the Registrar.

(5) On receipt of the report from the society under sub-rule (4), the Registrar shall after satisfying himself that the procedure has been properly followed, declare that the resolution has taken effect and register the amalgamated or divided societies.

R14. Manner of consulting the Financing Bank and Circle Co-operative Union when the Registrar directs amalgamation and division :- Before issuing any order under sub-section (8) or (9) of Section 14 Registrar shall prepare a draft scheme in respect of such amalgamation or division stating in particular the manner in which the assets and liabilities of the society or the societies proposed for division or amalgamation, as the case may be, is to be dealt with the composition and strength of the new Committee or Committees of the society or societies resulting from such amalgamation or division and the bye-laws which such society or societies shall follow. The Registrar shall send a copy of the scheme to the financing Bank, and Circle Co-operative Union for their views within such time as may be specified by him. If no reply from the Financing Bank and Circle Co-operative Union is received within the time fixed it will be presumed that the financing bank and the Circle Co-operative Union are agreeable to the scheme prepared by the Registrar. After considering the views if any received from the financing bank and the Circle Co-operative Union the Registrar shall send the order under sub-section (8) and (9) of section 14 to the committee or each of the committees concerned calling upon it or them to amalgamate or divide, as the case may be, within such time as may be specified in the order.

R41. Procedure regarding the constitution of committees of new societies in the case of a division of a society :- (1) At the meeting of the General Body of the Society, in which the division of the society, is considered as per Section 14 such of the members of the original society as will become members of any new society shall appoint a committee consisting of not more than 5 members of such new society (hereinafter in this rule referred to as the Interim Committee) to conduct the affairs of such new society for a period of three months from the date of its registration or for such further period as the Registrar may extend from time to time. The members of the Interim Committee shall appoint from among themselves a President.

(2) The names of the members of the Interim Committee of each of the new societies shall be reported to the Registrar, Financing Bank and Circle Co-operative Union along with a copy of the resolution passed.

(3) On the registration of the new societies, the Committee of the original society shall deliver possession of the records, cash and properties in its possession to the interim committees of the new societies appointed under sub-rule (1).

(4) The interim committee of each of the new societies shall, notwithstanding anything contained in these rules or the bye-laws of the new society, exercise all the powers conferred and discharge all the duties imposed on the committee by the bye-laws of such new society.

(5) The interim committee of each of new societies shall, before the expiry of its term of office, arrange for the constitution of a committee in accordance with provisions of the Act, these Rules and the bye-laws of the new society. The Interim Committee shall hand over the management of the society to the committee so constituted and shall cease to function as such, thereafter irrespective of the period for which it was appointed.

CASE LAWS

The case laws under this head are divided into two; namely Amalgamation and Transfer of Assets of Societies

AMALGAMATION

Delegation of power Assistant Registrar - Competent to pass an order of amalgamation of Co-operative Societies - Assistant Registrar Prior to amendment authorised to exercise all powers of Registrar by virtue of notification - After amendment not necessary that a fresh notification should be issued.
(Punjab Co-operative Societies Act, 1961, Section 3 and 13, Sub-Section (1) to (12))
1985 (2) AI LLR 236

Constitutionality of Compulsory amalgamation Philosophy and concept of Co-operative movement is impregnated with the public interest and amalgamation when in the interest of Co-operative Societies is certainly in public interest - Co-operative Society is corporation a commonly understood-Society is a body corporate having perpetual succession a common seal with power to hold property, enter into contracts institute and defend suits and to do all things necessary-They are created and controlled by statute-There can be no objection to statutory interference on ground of contravention of individual rights of freedom of association.
(Punjab Co-operative Societies Act, 1961, Section 13, Sub-Section (8) to (12))
1985 (2) AI LLR 236

Public interest The protection of Article 31 A (1) (c) cannot be said to be not available to Section 13 (8) of the Act as the interest of a Co-operative society may not necessarily be in the public interest or for the proper management of the Society. The very philosophy and concept of the Co-operative movement is impreganted with the public interest and the amalgamation of Co-operative Societies is certainly in the public interest or can only be to secure the proper management of the Societies.
(Punjab Co-operative Societies Act (25 of 1961), Section 13 (8)
AIR 1985 SC 973

TRANSFER OF ASSETS OF SOCIETIES

Loss capable of being compensated Exercise of jurisdiction - Transfer of assets and liabilities of a Co-operative Society is valid - Assets and liabilities taken over by transferee society - Transferor society ceasing to function - No objection by

its members except petitioner - Petitioner's loss capable of being compensated - Writ to quash transfer refused in the circumstances and suitable directions issued.

AIR 1974 Ker 95 = 1974 (10) CLJ 88 = 1975 CLR 10 P.V. Devassy v/s Deputy Registrar of Co-operative Societies

Non compliance of the provisions The requirements of sub-sections (4) and (6) relating to transfer of assets and liabilities of a society are mandatory. In case of non compliance of the provision transfer cannot take effect.

AIR 1974 Ker 95 = 1974 (10) CLJ 88 = 1975 CLR 10 P.V. Devassy v/s Deputy Registrar of Co-operative Societies

Notice Transfer of assets and liabilities of a Cooperative Society would be invalid if the statutory notice under Sub Section 4 of Section 14 of the Kerala Cooperative Societies Act 1969 is not given to every member even though he is a party to the transfer resolution.

No objection by its members except petitioner, whose loss is that the statutory notice was not issued to him and he did not get the period of 2 months to exercise his option to withdraw his shares and deposit, if any, from the Society - Society directed to settle the claim of the petitioner, if any, within two months.

1974 CLJ 88 P.V. Devassy V/s Deputy Registrar of Cooperative Societies

RULES

[*R**15. Classification of societies according to types :-** After the registration of a society the Registrar shall classify the society into one or other of the following types according to the principal object provided in the bye-laws :-

Type	Examples
Credit Societies	
A. Short term / Medium term	
(1) Apex	Kerala State Co-operative Bank Limited.
(2) Central	District Co-operative Banks
(3) Primary	(a) Primary Agricultural Credit Societies, Regional Banks, Rural Banks, Farmers Service Co-operative Banks, Urban Co-operative Banks.
	(b) Employees Credit Societies / unlicenced Urban Co-operative Banks, Agricultural
B. Long term	Improvement Societies.
(1) Apex	Kerala State Co-operative Agricultural and Rural Development Bank Limited.
(2) Primary	Primary Co-operative Agricultural and Rural Development Bank

*Substituted by SRO. No. 380/2000

C. Housing Societies	
(1) Apex	Kerala State Co-operative Housing Federation
(2) Primaries	
(a) Co-operative Building Society	These are based on individual ownership.
(b) Co-operative House Building Society	The assistance for construction of houses in accordance with the approved type designs, is provided by the society. In the former type members themselves construct the houses. In the latter type the society builds on behalf of the members.
(c) Co-operative House Construction Societies	These societies acquire land, construct houses and allot them to members on [*hire purchase] system.
(d) Tenancy Housing Society	The society owns site, constructs houses according to the types and designs and rents out them to the members. The relationship between the society and the member is that of a house owner and a tenant.
(e) Other Housing Society	House Mortgage Bank. Such societies advance loans for repair, remodelling of old houses, on the security of the houses and other landed property.
2.A. Marketing Societies	
(1) Apex	Kerala State Co-operative Marketing Federation Kerala State Co-operative Rubber Marketing Federation
(2) Primary	All Co-operative Marketing Societies at primary levels
B. Processing Societies	
(1) Agricultural Processing Societies	
(i) Primary	Societies which process Agricultural produce like Co-operative Sugar Factories, Tea Factories, Tapioca Processing Units, Oil crushing, Paddy Hulling Societies and Coffee Curing.
(ii) Apex	Kerala Kera Karshaka Sahakarana Federation (KERAFED)
(2) Industrial Processing Societies	
(i) Apex	Kerala State Co-operative Textile Federation (TEXFED)

* The Hire-purchase Act, 1972 is repealed by The Hire-purchase (Repeal Act), 2005 (Act No. 31 of 2005) which received the assent of the President on 23-6-2005 and was published in Gazette of India Extra, Part II, Section I, dated 23-6-2005 No. 34 Page 1

	Kerala State Cashew Workers Apex Industrial Co-operative Society Limited (CAPEX)
	Kerala State Sericultural Co-operative Federation (SERIFED)
(ii) Primary	Primary Cashew Workers Industrial Co-operative Societies, Primary Sericultural Co-operative Societies
(3) Other Processing Societies	Ayurveda Co-operative Societies
C. Agro Industrial Societies	
(1) Federal Societies	Regional Agro Industrial Development Co-operative Of Kerala Limited
(2) Primary Societies	Kerala State Rubber Co-operative Limited
3. Consumer Societies	
(1) Apex	Kerala State Co-operative Consumer Federation
(2) Central	District Wholesale Consumer Stores
(3) Primary	Consumer Co-operative Stores
4. Farming Societies	
(1) Better Farming Societies	Such a Society purchases materials in bulk and provides societies improved methodes of cultivation among the members without pooling their lands and resources
(2) Joint Farming Societies	In this type the members of the society pool their lands and resources and carry on cultivation jointly under the auspices of the society. The profit is divided among themselves after meeting the cost of the cultivation and other expenses of the society, in proportion to the extend of land held by each.
(3) Tenant Farming Societies	Such Society acquires or owns the land for cultivation. It parcels out the land in convenient economic units to the members for their independent cultivation, fixing a rent. The relationship between the Society and the members is that of a land owner and tenants.
(4) Collective Farming Societies	In this type the whole land are owned and held by the Society. The cultivation is carried on in the land by the Society employing the members. The profits of the Society are

	distributed among members in proportion to the work done by them.
5. Producers Society	
(1) Apex	Kerala State Handloom Weavers Co-operative Society (HANTEX)
	Kerala State Handicraft Apex Co-operative Society
	Kerala State Co-operative Coir Marketing Federation (COIRFED)
	Kerala State Co-operative Federation for Fisheries Development (MATSYAFED)
	Kerala Co-operative Milk Marketing Federation (MILMA)
(2) Central	Central Coir Marketing Society, Regional Milk Producers Union
(3) Primary	Weavers Societies, Carpenters Societies, Societies for black smiths, Potteries Societies, Coir Societies, Mat weaving Societies, Forest Labourers Societies, Cattle Breeding Societies, Paultry Societies, Piggery Societies, Dairy Societies, Fisheries Societies
6. Hospital Societies	
(1) Apex	Kerala Co-operative Hospital Federation
(2) Primary	Primary Hospital / Dispensary Societies (Allopathy, Ayurvedic, Homeo, Unani etc.)
7. SC/ST Societies	
(1) Apex	Kerala State Federation of SC/ST Development Co-operatives
(2) Primary	SC/ST Societies
8. Educational Co-operative Societies	
9. Labour Contract Co-operative Societies	
10. Vanintha Co-operative Societies	
11. Miscellaneous Societies	
(1) Social Welfare Societies	Better Living Societies, Literary Societies and Welfare Societies
(2) Commercial Societies	Insurance, Motor Transport and Autorickshaw

	Societies, Media, Video, Visual and Film Societies, Co-operative Printing Press and Work shop etc.
(3) Others	i. Not falling in either of the above sub classes
	ii. Lift Irrigation Societies
	iii. Producers-cum-Consumer Societies

Note : (i) If any question arises as to the classification of a Society, it shall be referred to the Registrar for decision and his decision thereon shall be final.
(ii) If the Registrar alters the classification of a Society from one class of Society to another or from the sub-class thereof to another, he shall issue to the society and the Financing Bank a copy of his order and the society shall fall under that category with effect from the date of that order.]

CASE LAWS

Co-operative bank National Bank For Agriculture And Rural Development Act, 1981 – S.2 (u) – Entitlement of a bank to be declared a 'co-operative' bank – RBI cannot grant a licence to any co-operative bank unless it is a State Co-operative Bank or a Central Co-operative Bank or a Primary Co-operative Bank which has first obtained a declaration under the NABARD Act. *In this judgment* **1979 (1) Ch D 592, 1970 SCC 248, AIR 1969 Bom 151** *and* **AIR 1961 Mad 14** *are referred to.*

2003 (3) KLT SN 199 = JT 2003 (8) SC 170 DB Apex Co-operative Bank of Urban Bank of Maharashtra And Goa Ltd v/s The Maharashtra State Co-operative Bank Ltd

Unlicensed urban bank Co-operative Societies Rules, 1969 (Kerala) – Rule15 - Co-operative Societies Act and Rules do not permit registration of a co-operative society as an unlicensed urban bank.

It is significant in this context to note that the question of such a classification into a type of society arises only after the registration of a society. It could not have been otherwise because an unlicensed urban co-operative bank is not a species in itself to be formed and registered. As case be seen from S.22(2) and S.36A(3) of the Banking Regulation Act an unlicensed urban bank comes into existence only in limited situations indicated above. None of the situations warrants the formation of a co-operative society from the state of R.3(2), by not less than 25 persons forming a promoting committee. It follows that the Kerla Co-operative Societies Act and Rules do not permit registration of a co-operative society as an unlicensed urban bank.

2003 (1) KLT 69 = AIR 2003 Ker 299 Muhammed Usman v/s Registrar of Co-operative Societies

ACT

S15. Cancellation of registration certificates of societies in certain cases :- (1) Where the whole of the assets and liabilities of a society are transferred to another society in accordance with the provisions of section 14, the registration of the first mentioned society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more societies are amalgamated into a new society in accordance with the provisions of section 14, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each amalgamating society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a society is divided into two or more societies in accordance with the provisions of section 14, the registration of that society shall stand cancelled on the registration of the new societies and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

CASE LAWS

Cancellation of registration is a serious matter Cancellation of registration of the Society is a serious matter and has to be preceded by an enquiry provided under the Act and all formalities required to be followed before cancellation have got to complied with. For cancellation in terms of Section 65 (2) (iii) the order of the Registrar must clearly show that society has comply materially with any condition as to registration in the Act, rules or bye-laws and specific violation thereof. All these things in the order of cancellation are made subject of appeal and the appellate authority also has got to find out whether preconditions for cancellation of registration have been fulfilled or not.

(Assam Co-operative. Societies Act, 1949, Sections 65 (2) (iii), and (5) and 80 (3))
ILR 1968 (20) Assam 325

CIRCULARS AND GOVERNMENT ORDERS

Selected circulars and Government orders have been reproduced hereunder on the subject matter of this chapter varying from Registrar to Cancellation of Registration. Such broad classification is depended upon mainly on the ground that circulars as a general rule have interlinged depth and strata of practical aspects covering many subjects within the same circular. Circulars are mainly meant for the trouble shooting of day to day problems that may be arising during the execution of law and the policies of the Government. These can be considered as part of subordinate legislation and their jurisdiction is confined within the power of the power giving authority. Some of them may be executive in nature and the others may be guidelines or clarification. However

CIRCULARS

The Circulars included in the Sahakarana Sarkular Samaharam are not reproduced in this volume. However, relevant portion of the index of that book is furnished below. Recent circulars follow this index.

Number	Subject	Page
6/70	സഹകരണസംഘങ്ങളിലെ പണച്ചുമതല സംബന്ധിച്ച്.	3
51/82	Amendments to Bye-laws of Co-operative Societies-Rejection there of-observing provisions laid down in sub section(4) of section 12 of KCS Act regarding.	3
49/83	Keeping the registered bye-laws with up-to- date amendments in tact- Instructions issued.	4
7/86	സഹകരണസംഘങ്ങളുടെ രജിസ്ട്രേഷനും നിയമാവലിയുടെ ഭേദഗതിയും- തൽസംബന്ധമായ വിവരങ്ങൾ സഹകരണ ചട്ടം 11-ൽ നിർദ്ദേശിച്ചിരിക്കുന്ന പ്രകാരം 4-ാം നമ്പർ ഫാറത്തിൽ എഴുതി സൂക്ഷിക്കൽ- നിർദ്ദേശം നല്കുന്നു.	4
24/86	സഹകരണസംഘങ്ങൾ-ഭരണസമിതി തെരഞ്ഞെടുപ്പിനുവേണ്ടി പൊതുയോഗം വിളിച്ചുകൂട്ടൽ-അംഗങ്ങൾക്ക് നോട്ടീസ് നൽകുന്നത് ദിനപ്പത്രത്തിൽ പരസ്യം ചെയ്യുന്നതിലേക്കായി ബൈലാ ഭേദഗതി ചെയ്യുന്നത് സംബന്ധിച്ച് നിർദ്ദേശം നൽകുന്നു.	6
37/87	സംഘങ്ങളുടെ രജിസ്ട്രേഷൻ ബൈലാ ഭേദഗതി രജിസ്റ്റർ ചെയ്യുന്നതിലുള്ള കാലതാമസം ഒഴിവാക്കുന്നതു സംബന്ധിച്ചുള്ള നിർദ്ദേശങ്ങൾ	8
54/87	Co-operative Societies at Primary Level-Registration by Joint Registrars-Prior consultation with Registrar-Further instructions issued	9
18/93	സഹകരണവകുപ്പ് ബൈലാ ഭേദഗതി സംബന്ധിച്ച നിർദ്ദേശങ്ങൾ.	12
22/93	Co-operative department- paid up share capital surpassing the Authorised Share Capital- Timely amendment of bye-law instructions-regarding.	14
8/2000	സഹകരണ വകുപ്പ്-1999-ലെ കേരള സഹകരണ സംഘം (ഭേദഗതി) നിയമം-സഹകരണസംഘം രജിസ്ട്രേഷൻ, നിയമാവലി ഭേദഗതി ചെയ്യൽ, അംഗത്വം നൽകൽ എന്നിവ സംബന്ധിച്ച് സമയബന്ധിതമായി തീർപ്പ് കൽപ്പിക്കേണ്ട കാര്യങ്ങൾ-നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു.	15
Lr.MT.1.31080/99 Dt.5-6-2000	ലേബർ കോൺട്രാക്റ്റ് സഹകരണ സംഘങ്ങൾ ക്ലാസിഫൈ ചെയ്യുന്നതു സംബന്ധിച്ച്.	16
39/2000	സഹകരണവകുപ്പ്-1969-ലെ കേരള സഹകരണസംഘം നിയമത്തിലേയും ചട്ടങ്ങളിലേയും ഭേദഗതികൾ- സഹകരണ സംഘങ്ങളിലെ നിയമാവലി ഭേദഗതി-നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു.	17

നമ്പർ എം.പി.(2) 19177/2001 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്, തിരുവനന്തപുരം, തിയതി 10.7.2001

സർക്കുലർ നമ്പർ 31/2001

വിഷയം : **സഹകരണ വകുപ്പ് സഹകരണ സംഘങ്ങൾ രജിസ്റ്റർ ചെയ്യുമ്പോൾ നൽകേണ്ട രജിസ്ട്രേഷൻ സർട്ടിഫിക്കറ്റ് / രജിസ്റ്റർ ചെയ്ത നിയമാവലി എന്നിവ നല്കുന്നത് സംബന്ധിച്ച് നിർദ്ദേശം**

1969ലെ സഹകരണ സംഘം നിയമം 7,8 എന്നീ വകുപ്പുകളിലും സഹകരണ

ചട്ടങ്ങളിലെ 4 -ാം ചട്ടത്തിലും സംഘം രജിസ്ട്രേഷനെ സംബന്ധിച്ച് വ്യവസ്ഥകൾ നിജപ്പെടുത്തിയിട്ടുണ്ട്. സഹകരണ നിയമത്തിലെ 7 -ാം വകുപ്പ് പ്രകാരം, ഒരു സംഘം രജിസ്റ്റർ ചെയ്തു കഴിഞ്ഞാൽ 8 -ാം വകുപ്പുപ്രകാരം രജിസ്ട്രേഷൻ സർട്ടിഫിക്കറ്റ് ഒപ്പിട്ടു സീൽ വച്ച് നല്കേണ്ടതാണ്. സഹകരണ ചട്ടങ്ങളിലെ ചട്ടം 4 (iv) ൽ രജിസ്ട്രേഷൻ സർട്ടിഫിക്കറ്റും രജിസ്ട്രേഷൻ ബൈലായും നല്കേണ്ട വിധവും വ്യവസ്ഥപ്പെടുത്തിയിട്ടുണ്ട്.

സഹകരണ ചട്ടങ്ങളിലെ ചട്ടം 4 (vii) ൽ പ്രതിപാദിക്കുന്ന രജിസ്ട്രേഷൻ സർട്ടിഫിക്കറ്റിന്റേയും ബൈലായുടേയും പകർപ്പുകൾ ഫൈനാൻസിംഗ് ബാങ്ക്, സെൻട്രൽ അല്ലെങ്കിൽ അപ്പക്സ് സംഘം, സംസ്ഥാന സഹകരണ യൂണിയൻ, സർക്കിൾ സഹകണ യൂണിയൻ എന്നിവയ്ക്ക് നല്കേണ്ടതാണ്.

എന്നാൽ ചില ജോയിന്റ് രജിസ്ട്രാർമാർ സംഘങ്ങൾ രജിസ്റ്റർ ചെയ്യുമ്പോൾ മേല്പറഞ്ഞ നിയമത്തിനും ചട്ടത്തിനും വിരുദ്ധമായി ഒന്നിലധികം അസ്സൽ സർട്ടിഫിക്കറ്റുകളും അസ്സൽ ബൈലകളും അംഗീകരിച്ചു നല്കുകയും, അപ്രകാരം അംഗീകരിച്ച ബൈലോ/സർട്ടിഫിക്കറ്റ് തന്നെ ഫിനാൻസിംഗ് ബാങ്ക്, സർക്കിൾ സഹകരണ യൂണിയൻ എന്നിവയ്ക്ക് നല്കിയതായി ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. സംഘങ്ങൾ രജിസ്റ്റർ ചെയ്യുമ്പോൾ സംഘത്തിന് നിയമാനുസൃതമായുള്ള ഒരു സർട്ടിഫിക്കറ്റും ബൈലായും മസത്രമേ അംഗീകരിച്ചു സീൽ വച്ചു നൽകാൻ പാടുള്ളു എന്നും ചട്ടത്തിൽ പരാമർശിച്ചിരിക്കുന്ന സഹകരണ സ്ഥാപനങ്ങൾക്കും, സർക്കിൾ സഹകരണ യൂണിയനുകൾക്കും, അപ്രകാരം അംഗീകരിച്ചു നല്കിയ സർട്ടിഫിക്കറ്റ്/ ബൈലായുടെ പകർപ്പ് മാത്രമേ നല്കാവൂ എന്നും നിർദ്ദേശിക്കുന്നു.

ഡോ. കെ ഇളങ്കോവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ

നമ്പർ ജി.1/10073/02

സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 8.5.2002.

സർക്കുലർ നമ്പർ 19/2002

വിഷയം : **സഹകരണ വകുപ്പ് സഹകരണ സംഘങ്ങളുടെ നിയമാവലി ഭേദഗതി രജിസ്ട്രേഷൻ രജിസ്ട്രേഷൻ ഫീസ് നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു**

സൂചന : **9.4.02 ലെ വയനാട് ജോയിന്റ് രജിസ്ട്രാറുടെ (ജനറൽ) ഒ/992/2002 നമ്പർ കത്ത്**

1969 ലെ കേരള സഹകരണ സംഘം നിയമത്തിൽ വ്യവസ്ഥ ചെയ്തിട്ടുള്ള ഫീസ് ഈടാക്കാതെ ചില സഹകരണ സംഘങ്ങളുടെ നിയമാവലികളുടെ ഭേദഗതി രജിസ്റ്റർ ചെയ്തു കൊടുക്കുന്നുണ്ടെന്ന് സഹകരണ സംഘം രജിസ്ട്രാറുടെ ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. സഹകരണസംഘം നിയമത്തിലെ വകുപ്പ് 12 (2) ൽ സഹകരണ സംഘങ്ങളുടെ ബൈലോ രജിസ്റ്റർ ചെയ്യുന്നതിന് മുൻപ് 70ം വകുപ്പിന് വിധേയമായി രജിസ്ട്രാർക്ക് ബോദ്ധ്യപ്പെടേണ്ട എല്ലാ കാര്യങ്ങളും ബൈലോ ഭേദഗതിയ്ക്കും ബാധകമാണെന്ന് വ്യവസ്ഥ ചെയ്തിട്ടുണ്ട്. വകുപ്പ് 7 (1) (എ) പ്രകാരം രജിസ്ട്രേഷനുള്ള അപേക്ഷ നിയമനത്തിനും ചട്ടങ്ങൾക്കും അനുസൃതമായിരിക്കും. 1969 ലെ കേരള സഹകരണ സംഘം ചട്ടങ്ങിളിലെ ചട്ടം 3 (6) ൽ സംഘം രജിസ്ട്രേഷനുള്ള അപേക്ഷയോടൊപ്പം 50 രൂപയുടെ ചെലാൻ രസീത് കൂടെ

ചേർത്തിട്ടുണ്ടായിരിക്കണമെന്ന് വ്യവസ്ഥ ചെയ്തിട്ടുണ്ട്.

അപ്രകാരം സഹകരണ സംഘം നിയമത്തിലെ വകുപ്പ് 7 ൽ രജിസ്ട്രേഷന് വേണ്ടി വ്യവസ്ഥ ചെയ്തിട്ടുളള എല്ലാ നിബന്ധനകളും ബൈലോ ഭേദഗതിയ്ക്കും ബാധകമാണെന്നുളളതിനാൽ സഹകരണ സംഘങ്ങളുടെ ബൈലോ ഭേദഗതിക്കുളള അപേക്ഷയോടൊപ്പം ചട്ടം 3 (6) ൽ വ്യവസ്ഥ ചെയ്തിട്ടുളള 50 രൂപയുടെ ചെലാൻ രസീത് കൂടെ ഉളളടക്കം ചെയ്യേണ്ടതാണ്. ഇക്കാര്യം സഹകരണ വകുപ്പിലെ ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥർ എല്ലാ സഹകരണ സ്ഥാപനങ്ങളുടെയും ശ്രദ്ധയിൽ കൊണ്ടു വരേണ്ടതും അവ കർശനമായി പാലിക്കുന്നുണ്ടന്ന് ഉറപ്പ് വരുത്തേണ്ടതുമാണെന്ന് നിർദ്ദേശിക്കുന്നു.

ജെയിംസ് വർഗ്ഗീസ് ഐ.എ.എസ്.
സഹകരണസംഘം രജിസ്ട്രാർ

നമ്പർ സി.പി. (5) 44612/2002

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 04.09.2002

സർക്കുലർ നമ്പർ 33/2002

വിഷയം : **സഹകരണ സ്ഥാപനങ്ങളുടെ ബൈലോ ഭേദഗതികൾ ചെയ്യുന്നതിനുളള അപേക്ഷകൾ നിരസിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **ബഹുമാനപ്പെട്ട സർക്കാരിന്റെ 23.10.2000 ലെ 5015/സി1/99 സഹകരണ നമ്പർ കത്ത്**

സഹകരണ സ്ഥാപനങ്ങൾ സമർപ്പിക്കുന്ന നിയമാവലി ഭേദഗതിക്കുളള അപേക്ഷകൾ നിരസിക്കുകയാണെങ്കിൽ അതിനുളള കാരണങ്ങൾ വ്യക്തമാക്കികൊണ്ട് സംഘങ്ങളെ പല ജോയിന്റ് രജിസ്ട്രാർമാരും അറിയിക്കുന്നാല്ലായെന്ന് സർക്കാരിന്റെ ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. അതിനാൽ താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ എല്ലാ ജോയിന്റ് രജിസ്ട്രാർമാരും കർശനമായി പാലിച്ചിരിക്കേണ്ടതാണ്.

1. സഹകരണസംഘങ്ങളുടെ നിയമാവലി ഭേദഗതിക്കുളള അപേക്ഷകൾ നിരസിക്കുകയാണെങ്കിൽ പ്രസ്തുത വിവരം എഴുദിവസത്തിനകം സംഘങ്ങളെ അറിയിച്ചിരിക്കേണ്ടതാണ്.

2. ഭേദഗതി നിരസിക്കുന്നതിനുളള കാരണം ഓരോ ക്ലാസിനും പ്രത്യേകം രേഖപ്പെടുത്തണം.

3. ബൈലോ ഭേദഗതിക്കുളള അപേക്ഷകൾ ഓഫീസിൽ വച്ച് 90 ദിവസത്തിനകം തീർപ്പാക്കേണ്ടതാണ്.

4. സഹകരണ നിയമത്തിലെ 12 (4) (എ) വകുപ്പ് കർശനമായി പാലിക്കുന്നുണ്ടെന്ന് എല്ലാ ജോയിന്റ് രജിസ്ട്രാർമാരും ഉറപ്പ് വരുത്തേണ്ടതാണ്.

5. സഹകരണസംഘം രജിസ്ട്രാർക്ക് രജിസ്ട്രേഷനായി അയയ്ക്കുന്ന ബൈലോ ഭേദഗതിക്കുളള അപേക്ഷകൾ 1969 ലെ കേരള സഹകരണസംഘം നിയമം ചട്ടം, സർക്കുലർ നിർദ്ദേശങ്ങൾ എന്നിവ പരിശോധിച്ച് ഓരോ ക്ലാസിനും നിർദ്ദേശിച്ചിരിക്കുന്ന ഭേദഗതികൾക്ക് ജോയിന്റ് രജിസർ്ട്രാർമാർ വ്യക്തമായ അഭിപ്രായം രേഖപ്പെടുത്തേണ്ടതാണ്.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

No.CB(4)46969/2002 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 23-1-2003

Circular No.4/2003

Sub **: Newly registered unlicensed urban Co-operative banks violation of BR Act 1949. Action taken in the light of the judgement of honourable High Court Kerala Instructions Issued**

Ref **: Common judgment of the honourable High Court of Kerala in OP No. 29903 and 12 other OPs of 2001 and OP. No. 2029 and 20 other OPs of 2002 dated 29-11-2002**

The registration of new unlicensed urban co-operative banks as per the provisions of rule 15(1) A(3) of Kerala Co-operative Societies Act. 1969 were challenged a number of original petition field before the Honourable High Court of Kerala. In a common judgement cited, the Honourable High Court of Kerala on 29th November 2002 has directed, the Registrar of Co-operative Societies, the Government and the RBI to take appropriate steps in the light of and to set things in order withing two months in respect of cases where action has been intiated already for violation of statutary provision and in other cases within two months from the date of receipt of appropriate representation. A meeting of the High level officers of the Reserve Bank of India and the Officers of the Government of Kerala Department of Co-operation in this connection was held on 30-12-2002 to discuss and to comply with the judgement. The following decision were taken in the said meeting.

(1) Circular instruction may be issued to all registered unlicensed urban Co-operative Banks to stop any violation of Banking Regulation act based on the common judgement of the Honourable High Court of Kerala.

(2) Convert the existing registered unlicensed Urban Co-operative Banks into Urban Co-operative Societies by making corresponding changes in clauses of the bye-laws,

(3) After completing all formalities, the registered unlicensed Urban Co-operative Banks (after con-version into societies) will report the fact to the Reserve Bank of India through the Registrar of Co-operative Societies. In the above circumstances, the following instructions are issued.

(4) All registered un licensed Urban co-operative Banks are directed to stop any violation of Banking Regulation Act based on the common Judgment of the Hon'ble High Court of Kerala.

(2) All the existing Unlicence urban Co-operative Banks are directed to change their names as Urban Co-operative Societies by making corresponding changes in the clauses of the Bye-laws within 2 months from the date of this circular.

All Joint Registrar of Co-operative Societies (General) in the districts are

directed to report the fact to the Reserve Bank of India through this office after completing all formalities within stipulated time limit. Any delay in this matter will be viewed seriously.

J. Raveendra Raju
Registrar of Co-operative Societies in Charge

നമ്പർ

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി

സർക്കുലർ നമ്പർ 52/2003

വിഷയം : **സഹകരണ വകുപ്പ് ചെറുകിട വനവിഭവ ശേഖരണത്തി ലേർപ്പെട്ടിരിക്കുന്ന പട്ടിക വർഗ്ഗ സഹകരണസംഘങ്ങളുടെ ബൈലാഭേദഗതി സംബന്ധിച്ച്**

സൂചന : **1. 24.06.2003 ൽ ബഹു സഹകരണവകുപ്പ് മന്ത്രിയുടെ സാന്നിധ്യത്തിൽ കൂടിയ യോഗതീരുമാനം**

ചെറുകിട വനവിഭവ ശേഖരണം പട്ടികവർഗ്ഗ സഹകരണസംഘങ്ങൾ തുടരുന്നതിനും ആയതിനുവേണ്ടി വനവിഭവ ശേഖരണത്തിൽ ഏർപ്പെട്ടിരിക്കുന്ന പട്ടികവർഗ്ഗസംഘങ്ങളുടെ ഭരണസമിതിയിൽ വനംവകുപ്പിലെ ഫോറസ്റ്റർ റാങ്കിംഗിൽ കുറയാത്ത ഒരു ഉദ്യോഗസ്ഥനെ ഉൾക്കൊള്ളിക്കാനാവശ്യമായ ബൈലഭേദഗതി വരുത്തുന്നതിനും, വനംസംരക്ഷണത്തിന്റെ മറ്റ് പ്രവർത്തനങ്ങൾ കൂടി ഏറ്റെടുക്കാനാവശ്യമായ വ്യവസ്ഥ വനവിഭവ ശേഖരണത്തിൽ ഏർപ്പെട്ടിരിക്കുന്ന സംഘങ്ങളുടെ ബൈലോയിൽ ഉൾപ്പെടുത്തുന്നതിനുള്ള നടപടികൾ സ്വീകരിക്കുന്നതിനും സൂചന ഒന്നിലെ യോഗത്തിൽ തീരുമാനമെടുക്കുകയും ടി കാര്യങ്ങൾ ഉൾപ്പെടുത്തി വേണ്ട നടപടി സ്വീകരിക്കുന്നതിന് സൂചന രണ്ടുപ്രകാരം അപേക്ഷിച്ചിട്ടുണ്ട്. ആയതിനാൽ ഇക്കാര്യത്തിൽ താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

ചെറുകിട വനവിഭവ ശേഖരത്തിലേർപ്പെട്ടിരിക്കുന്ന പട്ടികവർഗ്ഗസഹകരണ സംഘങ്ങളുടെ ഭരണസമിതിയിൽ വനംവകുപ്പിലെ ഫോറസ്റ്റർ റാങ്കിംഗിൽ കുറയാത്ത ഒരു ഉദ്യോഗസ്ഥനെ ഉൾക്കൊള്ളിക്കുന്നതിനും വനം സംരക്ഷണത്തിന്റെ മറ്റ് പ്രവർത്തനങ്ങൾക്കും കൂടി ഏറ്റെടുക്കാനാവശ്യമായ വ്യവസ്ഥകൾ ബൈലോയിൽ ഉൾപ്പെടുത്തുന്നതിനും വേണ്ട നടപടികൾ എല്ലാ പട്ടികവർഗ്ഗ സഹകരണസംഘങ്ങളും സ്വീകരിക്കേണ്ടതാണ്.

പട്ടികവർഗ്ഗ സഹകരണ സംഘങ്ങളുടെ ബൈലായിൽ ആവശ്യമായ ഭേദഗതികൾ വരുത്തുന്നതിനുള്ള നടപടികൾ ജോയിന്റ് രജിസ്ട്രാർമാർ സ്വീകരിക്കേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

MEMBERSHIP

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ACT

CHAPTER III
MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

S16. Persons who may become members :- (1) No person shall be admitted as a member of a society except the following, namely:-

(a) an individual-

(i) who has attained the age of eighteen years:

Provided that this sub clause shall not apply in the case of a society formed exclusively for the students of any school or college;

(ii) who is not of unsound mind;

(iii) who is a resident within, or is in occupation of land in the area of operation of the society;

(b) any other society;

[*(ba) local self Government]

(c) the Government; and

(d) any body of persons, whether incorporated or not and whether or not established by or under any law, if such body is approved by the Government in this behalf by general or special order;

Provided that in a society formed for the promotion of the economic interests of its members through a specified activity no person other than who is likely to be benefited directly by such activity may be admitted as a member of such society unless such admission is permitted specifically by rules;

Provided further that where a society is formed exclusively for the benefit of persons engaged in any particular industry, no person who is not an actual worker in the industry shall be admitted in excess of such percentage of the total membership of the society as may be prescribed:

Provided also that the Coffee Board, the Rubber Board and any other statutory or nonstatutory Board, committee or Corporation constituted for the purpose of the development, of an industry, may be admitted as a member of a society engaged in marketing and processing of the products of the industry concerned and formed for the workers and growers of such industry, so however that no such Board, Committee or Corporation shall be admitted as a member of a co-operative credit society.

[*Provided also that in the case of hospital co-operative societies, industrial and commercial establishments and other organisations registered under any other law may be admitted as members.

Explanation:- For the purpose of this sub-section hospital co-operative society means a society, the main object of which is to run a hospital or to conduct

* Inserted by Act 1 of 2000

medical or paramedical courses or to run medical shops;]

(2) Membership in any society other than a society formed for the benefit of the Scheduled Castes or the Scheduled Tribes shall not be refused merely on the ground that a person belongs or does not belong to a particular religion, race, community, caste, sect or denomination. A decision on an application for membership shall be taken within two months from the date of receipt of the application.

[*(2A) Where an application for membership in a society is not disposed of within the time specified in sub-section (2), the Registrar shall be bound, on the written request of the applicant, to determine whether such membership shall be given or not;

(2B) Where the Registrar does not, within one month of the date of receipt of such written request, determine whether such membership should be given, or not, the applicant may make a representation,-]

(a) before the Registrar, if the request referred to in sub-section (2A) is made to a person on whom, the powers of the Registrar is conferred under sub-section (2) of Section 3; or

(b) before the Government, if the request referred to in sub-section (2A) is made to the Registrar, and the Registrar or the Government, as the case may be shall, within thirty days from the date of receipt of such representation, determine whether such membership should be given or not.

(3) Where a person is refused admission as a member is a society, the decision refusing admission, together with the reasons thereof shall be communicated by the society to that person within a period of fifteen days from the date of the decisions.

RULES

CHAPTER III
RIGHTS AND LIABILITIES OF MEMBERS OF CO-OPERATIVE SOCIETIES

R16. Conditions to be complied with for admission for membership :-

(1) No person shall be admitted as a member of a society unless-

(a) he has applied in writing in the form if any laid down by the society;

(b) his application is approved by the committee of the society;

(c) he has fulfilled all other conditions laid down in the Act, Rules and Bye-laws;

(d) in the case of other societies or a body of persons, whether in corporated or not, and any statutory or non-statutory Board, approved by the Government, Committee or Corporation constituted for the development of any industry the application for membership shall be accompanied by resolution authorised it to apply for such membership.

(2) No person shall be eligible for admission as a member of a Co-operative Society, if he,-

* Inserted by Act 1 of 2000

(a) has not attained the age of 18 years;

(b) is not a resident of or does not own or possess land within the area of operation of the society, provided that this clause shall not apply in the case of a society formed exclusively for the students of any School or College;

(c) has applied to be adjudicated as an insolvent or is an undischarged insolvent;

(d) has been sentenced for any offence, other than an offence of a political character or an offence not involving moral turpitude and a period of five years has not elapsed from the date of expiry of the sentence; or

(e) is a paid employee of the Society or of its financing Bank or of any society for which it is the financing Bank, provided that this restriction shall not apply to Co-operative Motor Transport Societies, Co-operative Workshops, Societies for the employees of Financing Banks, and Societies formed for benefit of actual workers; or

(f) has been surcharged under Section 68 and a period of 3 years has not elapsed since the payment of money or restoration of property as directed in the said order of surcharge.

(3) Where a person already admitted to membership is seen to have been ineligible for membership at the time he was so admitted as a member or if he subsequently becomes ineligible for membership the Committee of the Society may remove the person from membership after giving him an opportunity for making his representation if any, and the person concerned shall thereupon cease to be a member of the society.

(4) Where a member of a society becomes ineligible to continue as such, the Registrar may of his own motion or on a representation made to him by any member of the society or by the financing Bank, by an order in writing declare that he has ceased to be a member of the society from the date of his order. The Registrar shall give such person an opportunity to state his objection, if any, to the proposed action and if the person wishes to be heard, he shall be give an opportunity to be heard before passing an order as aforesaid.

NOTIFICATIONS

Extracts of some important notifications issued by the Government in respect of admission of members to a particular society or class of societies are shown below. Please note that the notifications reproduced here are not exclusive. Notifications of individual application are avoided.

Partnership Firms, Joint Stock Companies and Registered Societies

Government of Kerala hereby approve Partnership Firms, Joint Stock Companies and Societies registered under the Societies Registration Act, 1860 for admission as members of Urban Co-operative banks as defined in the Banking Regulation Act, 1949 (Central act X of 1949), provided such institutions undertake promotion of Small Scale Industries.

SRO.No. 203/75 G.O.(MS) No. 33/75/AD dated 7-2-1975 in K.G. No.9 dated 4-3-1975

Kerala State Small Industries Development and Employment Corporation Ltd

Government of Kerala hereby approve the Kerala State Small Industries Development and Employment Corporation Ltd for admission as member of Industrial Co-operative Societies in the State.

SRO.No. 417/77 G.O.(MS) No. 134/77/ID dated 30-4-1977 in K.G. No.21 dated 24-5--1977

Panchayats and Institutions registered under the Societies Registration Act

Government of Kerala hereby approve the Panchayats and Institutions registered under the Societies Registration Act, 1860 or under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955, as the case may be, as body of persons eligible for admission as members of the Primary Land Mortgage Banks registered under the Kerala Co-operative Societies Act, 1969 for the purpose of enabling them to obtain financial aid from the Primary Land Mortgage Banks, subject to the condition that no application from a Panchayat for loan shall be entertained by the Primary Land Mortgage Banks without the specific concurrence of the Director of Panchayats.

SRO.No. 1175/78 G.O.(MS) No. 309/78/AD dated 27-11-1978 in K.G. No.51 dated 19-12-1978

Handloom Development Corporation Limited, Cannanore

Government of Kerala hereby approve the Kerala State Handloom Development Corporation Limited, Cannanore 670001 for admission as member of the Handloom Weavers Co-operative Societies including the Weavers Industrial Co-operative Societies (Factory type) in the State.

SRO.No. 1188/79 Notification No. 14915/C2/72/ID dated 3-10-1979 in K.G. No.43 dated 30-10-1979

Kerala Co-operative Central Land Mortgage Bank Limited and Primary Land Mortgage Banks

Government of Kerala hereby approve the body corporates established by or under any law for the time being in force, for the purpose of admission as members of the Kerala Co-operative Central Land Mortgage Bank Limited and Primary Land Mortgage Banks.

SRO.No. 336/81 G.O.(MS) No. 57/81/AD dated 27-2-1981 in K.G. No.12 dated 24-3-1981

Fishermen's Welfare Societies

Government of Kerala hereby approve the Fishermen's Welfare Societies constituted under the Kerala Fishermen Welfare Societies Act, 1980 (7 of 1981) for admission as members of the Regional or District Fisheries Development Fisheries Societies.

SRO.No. 221/84 G.O.(Rt) No. 158/84/TF&PD dated 2-3-1984 in K.G. Ex. No.184 dated 5-3-1984

CASE LAWS

Membership Co-operative Societies Act, 1961 (Gujarat) - Sections 24 and 30 - Bye-law laying down that only members belonging to Parsi Community can be members of the society - Since there is no provision in the Act which precludes a society from prescribing a qualification for membership based on a belief, a persuasion or a religion, the bye-laws will prevail - Membership can be denied to members of other religions. *In this judgment* **AIR 1971 SC 966, AIR 1989 Bom 392, AIR 1985 SC 973, AIR 1970 SC 245, 1997 (3) SCC 681, 2000 (9) SCC 295, 1994 Supp (1) SCC 644** *and* **1959 Supp (2) SCR 406** *are referred to.*

2005 (2) KLT SN 74 C 88 SC DB Zoroastrian Co-operative Housing Society Ltd v/s District Registrar

Additional share value Co-operative Societies Rules, 1969 (Kerala) – Rule 16 (1) (c), Rule 16 (3), Rule16 (4) – Failure to pay the additional share value – Effect of – Until he pays the additional share value, he will not be entitled to exercise any of the rights of a member – Once he is removed from the membership following the procedure under Rule 16 (3) or Rule 16 (4), he ceases to be a member.

The expression "such payments to the society in respect of membership" includes the extra amount to be paid by a member on account of any subsequent amendment to the bye laws increasing the share amount. Hence a member who fails to pay the difference in share value within the stipulated period will remain to be a member in name without any rights of a member until he is duly removed from membership following the procedure laid down under Rule 16 (3) or under Rule16 (4) of the Kerala Cooperative Societies Rules.

2004 (2) KLT 179 = ILR 2004 (2) Ker 502 = AIR 2004 Ker 266 DB Kadakam Service Cooperative Bank Ltd v/s Narayana Bhat

Administrator and enrolment of Members - Co-operative Societies Act, 1969, (Kerala) - Sections 32 and 33 – Powers of Administrator to exercise functions of the Committee including enrolment of members – Administrator or an Administrative Committee have no power to enroll new members – A co-operative society is expected to function in a democratic manner through an elected committee of management and that committee of management is empowered to enrol new members. *In this judgment* **1997 (6) SCC 37** *and* **2000 (1) KLJ 291 FB** *are referred to and* **1998 (2) KLT 746** *is affirmed.*

2000 (2) KLT 480 = 2000 (1) KLJ 787 DB Joint Registrar of Co-operative Societies v/s T.A. Kuttappan

Power of Administrator to enroll members - Co-operative Societies Act, 1969, (Kerala) - Sections 32 and 33 – Powers of Administrator to enroll members – Decision reported in 1998 (2) KLT 746 that Administrator has no power – The

judgment will act only prospective and not retrospectively.

There are several decisions of the Supreme Court where relief was so moulded not to affect past transactions in public interest. In the present case there is no dispute regarding the appointment of the administrators, but the dispute relates to their exercise of certain jurisdiction which they had in them according to the interpretation of S.33(4) by the binding decision of this Court during the relevant period. According to us, if we have to hold that in the light of the declaration of law in 1998 (2) KLT 746 all members enrolled by the administrators from the year 1981 onwards or even earlier period are disqualified, it would certainly end up the functioning of the societies in chaos. Such an action will be totally against public interest. According to us, this Court will be fully justified in holding that the decision will have only prospective effect. We make it clear that parties to the Original petitions which were subject matter of the Full Bench decision are bound by the judgment. *In this judgment* **1998(2) KLT 746** *is explained and* **AIR 1967 SC 1643, AIR 1991 SC 471, 1995 Supp (2) SCC 560, 1995 (1) SCC 184, 1985 Lab IC 1481, AIR 1980 SC 1037, AIR 1996 SC 484, 1998 SCC 245, AIR 1981 SC 1473** *and* **AIR 1970 Ker 165** *are referred to.*

2000 (1) KLT 730 FB = 2000 (1) KLJ 291 FB Cherthala Agricultural and Rural Development Bank v/s Joint Registrar

Unsoundness of mind Words & Phrases – "Mental disorder", "Psychopathic disorder", "Incurably of unsound", "unsoundness of mind" meaning of – See – Hindu Marriage Act, 1955, S.13(1), Cl.(iii) Explanations (a) & (b).

2000 (1) KLT 589 FB = 2000 (1) KLJ 284 = ILR 2000 (2) Ker 37 Lissy v/s Jaison

Ordinary resident Words & Phrases – 'Ordinary resident' meaning of – Representation of People Act, 1950, Ss.16,17,18.

1999 (2) KLT SN 71 P 66 = 1999 (2) KLJ NOC 41 SC DB Baburao v/s Manikrao

Administrator and Membership - Co-operative Societies Act, 1969, (Kerala) - Section 32 – An administrator appointed under S.32(4) will have no power to enroll new members – Administrator is only expected to carry on the day to day functions of the society and conduct the election.

ILR 1999 (1) Ker 228 FB Hassan v/s The Joint Registrar of Co-operative Societies and others

Right to become a member No citizen has a fundamental right under Art. 19 (1) (c) to become a member of a co-operative society. His right is government by the provisions of the statute. So the right to become or to continue being a member of the society is a statutory right. On fulfillment of the qualifications prescribed to become a member and for being a member of the society and on admission, he becomes a member. His being a member of the society is subject to the operation of the Act, rules and bye-laws applicable from time to time. A member of the society has no independent right qua the society and it is the society that is entitled

to represent as the corporate aggregate. No individual member is entitled to assail the constitutionality of the provisions of the Act, rules and bye-laws as he has his right under the Act, rules and bye-laws and is subject to its operation. The stream cannot rise higher than the source.

1997 (3) SCC 681 State of U.P. v/s COD Chheoki Employees Co-operative Society

Bye-law against Act Bye-law contrary to provisions of Section 16 but registered under Section 7. Registrar cannot be deemed to have granted exemption in reference to Section 16. Section 7 of the Act read with Rule 5 of the Rules mandates that no bye-law can be registered if it is against the provisions of Act and Rules. In the light of this categorical and clear position of law it may not be possible to infer that even though the bye-law in question is contrary to provisions of the Act and Rules, the Registrar is deemed to have granted exemption in reference to Section 16 and Rule 16 of the Act and Rules.

1997 (1) KLT 589 = 1997 (1) KLJ 378 = AIR 1997 Ker 158 Abdul Gafoor v/s Joint Director

Membership and area of operation Membership only from the area of operation of the society - Clause in the bye-law that membership can be given to 2% social workers from fish catching are of the society. They must be from the area of operation of the society.

1997 (1) KLJ 378 = AIR 1997 Ker 158 M.K. Abdul Gafoor v/s Joint Director of Fisheries

Membership and share Rules 16 (b) & 16 (1) (c) - Entire share capital already paid up in full - Society cannot admit new members and issue share certificates unless the bye-laws are amended with retrospective effect-Till such admissions are regularised with retrospective amendment of bye-laws, those persons are not entitled to exercise the rights conferred on a member of the bank admitted within the authorised share capital.

Even though the committee in office approved the application submitted by those persons as required under Rule 16 (b) of the Rules, they cannot be legally enrolled to the membership of the bank without payment of the share amount as required under Rule 16(1) (c) and the bye-laws of the bank.

1996 (1) KLT 27 = 1996 (1) KLJ 66 = ILR 1996 (2) Ker 97 Antony v/s Irinjalakuda Town Co-operative Bank Ltd

Bye-law as a contract The bye-laws of a society constitutes a contract between the society and its members in respect of their rights of the members. Any proposal or amendment must therefore, have the sanction of its general body as prescribed under Rule 9 of the Rules. An enrolment of members made to the membership after its entire share capital is fully paid off, is unauthorised and destructive of the provisions of the bye-laws. It is prerogative right of the general body of a society either to refuse or approve amendment either with prospective or retrospective effect. If the

general body does not approve the amendment, enrollment after the entire share capital paid off will makes such admission illegal. So Rule 16(3) and (4) is not applicable. The above provision is applicable only to those who are admitted in accordance with the Act, Rules and Bye-laws and not in respect of those who are admitted in violation of provisions of the Act, Rules and bye-laws. *In this judgment* **1990 (1) KLT 530 Janardhanan v/s Joint Registrar** *is relied on.*

1996 (1) KLT 27 = 1996 (1) KLJ 66 = ILR 1996 (2) Ker 97 Antony v/s Irinjalakuda Town Co-operative Bank

Soundness of mind S.59-Matters to be considered for determining soundness of mind of testator-Testator's age, disease and mental weakness are all important considerations.

The question of sound disposing mind is a question of fact and degree of mental capacity in each case. Mental weakness to constitute testamentary incapacity must be qusa he will itself. A testator ought to be capable of making his will with an understanding of th enature of the document he is purporting to create, a recollection of the property he means to dispose of, of the persons wo are the objects of his bounty, and the manner in which it is to be distributed between them.

1995 (2) KLT 862 = 1995 (2) KLJ 577 = ILR 1996 (1) Ker 566 DB Natarajan v/s Sree Narayana D.S. Trust

Admission of the members declared illegal If the admission of the members declared illegal whether application required for new enrolment - Enrolment of members found to be illegal by the High Court. The Managing Committee cannot later ratify the earlier enrolment which was declared illegal and without jurisdiction by the court. Fresh application will have to be filed in accordance with Rule 16(2).

1993 (1) KLT 422 = 1993 (1) KLJ 460 Rajan v/s Registrar of Co-operative Societies

No right to be voter if enhanced share amount not paid If the society enhancing membership amount by amendment of bye-law, it does not exempt the existing members from payment of enhanced amount unless specifically excluded and they have no right to be included in the voters list unless enhanced amount is paid.

1992 (2) KLT 673 Jose v/s Registrar of Co-operative Societies

Removal of a promotive member Co-operative Societies Act, 1969 (Kerala) - Section 28 - After the constitution of the committee the distinction between a member who is a promoter of a Society and a member admitted thereafter disappears. If promotive member is not qualified to be a member he can be removed. *In this judgment* **1969 ALJ 652 A.N. Saxena v/s DRCSUP** *is distinguished.*

ILR 1991(2) Ker 269 = AIR 1991 Ker 405 Smt. Kamalu Itty an another v/s Assistant District Industries Officer and others

Removal from membership A person already admitted to membership is seen

to have been ineligible for membership at the time he was so admitted as a member or if he subsequently become ineligible for a membership, the committee of society may remove the person from membership after giving him an opportunity for making his representation if any.

ILR 1991 (2) Ker 269 Kamalu Itty v/s Assistant District Industries Officer

Admission of new members Co-operative Societies Act, 1969 (Kerala) - Sections 16 and 19 - Admission of new members - All conditions in Rule 16 of the Co-operative Societies Rules and Bye-laws of the Society to be complied with to become members. *In this judgment* **1985 KLT 836 George v/s State of Kerala** *and* **1983 KLT 1038 Govindan v/s Deputy Registrar of Co-operative Societies** *are referred to.*

ILR 1990 (3) Ker 707 = 1990 (1) KLJ 644 = 1990 (1) KLT 695 V. R. Krishnan Ezhuthachan v/s The Assistant Registrar of Co-operative Societies and others

Eessential condition for membership Rule 16 mandatory in its terms, that no person shall be admitted a member unless he complies with the conditions prescribed therein. Payment of share money and application fee are essential condition for membership.

1990 (1) KLT 695 = ILR 1990 (3) Ker 707 = 1990 (1) KLJ 644 Krishnan Ezhuthachan v/s Assistant Registrar

Mass enrolment and election Rule 16, Co-operative Societies Act, 1969, (Kerala), Section 105 - The names of hundreds of persons have been enrolled though they were not residents within the area of the Society. The admission of new members by the Administrator had been made without any application of mind as to the essential qualification for enrolment as members. If a person is shown to be a voter in a constituency outside the area of the society, that would be prima facie evidence of his lack of residential qualification. The election is to be declared as null and void, in as much as persons who have not been properly admitted as members of the society have been permitted to decide the destiny of a society in which they could not, in law, participate at all.

1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies

Residence or ownership or possession of land Rule 16 envisages among the other things, to get enrolled as a member, a qualification either based on residence or ownership or possession of land within the area of operation of the society. The enlistment of members without adherence to the statutory requirement is illegal.

1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies

Enrolment by illegally appointed administrator Appointment of Administrator declared as illegal and invalid by the court - Enrolment of members for election by Administrator is unauthorised is invalid and illegal.

1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies

Formalities Formalities regarding date of application, prescription of time for deposit of membership fee and amount of qualifying share and filling of requisite

declaration cannot be disregarded for the membership of the society.
Delhi Co-operative Societies Rules, 1972
AIR 1977 SC 1900 = 1977 (2) SCC 314 = 1977 (13) CLJ 6 = 1977 (2) SCR 371
Raj Rani v/s Delhi Administration

Nominee becoming a member Provision that nominee may become member only if admitted by Managing Committee is not ultra vires.
(Assam Co-operative Societies Rules, 1953, Rule 20)
AIR 1976 Gauhati 33 = 1976 (12) CLJ 87

Refusing some persons to be members Admission of new members Society refusing to accept certain persons as member - Held that it is a matter of contract between the Society and the persons who want to become its members - Persons seeking membership have no right to go to a Court of Law.
(Section 15, Punjab Co-operative Societies Act, 1961)
1973 PLJ 636

Enrolment of ineligible members Resolution of the Board of Directors extending membership of postal co-operative house construction society to persons other than postal employees is ultravires.
1971 BLJR 393 Postal Co-operative house Construction Society v/s Registrar

RULES

[*R16A. **Identity card :-** (1) A person admitted as a member of a Society shall be issued with an identity card, in Form 6 A, which shall be conclusive evidence to prove his membership in the Society. The member shall furnish two copies of his recent photograph of passport size to the Society. Copies of the photograph shall be attested by the Chief Executive of the Society or an officer specially empowered in this behalf by the Committee of the Society and one copy of the duly attested photograph shall be affixed in the identity card and the other copy shall be affixed in the Register in Form 6 B maintained for the purpose. The identity card shall also bear the seal of the Society.

(2) An existing member shall, within one month from the date of commencement of these rules, furnish to the society concerned two copies of his recent photograph of passport size and the Society shall issue identity card to him within a period of fifteen days from the date of receipt of the photograph:

Provided that the Registrar may, in deserving cases, for reasons to be recorded in writing, extend the above period of one month and fifteen days for a further period upto one month or fifteen days, as the case may be.

(3) The identity card shall be issued direct to the member concerned after obtaining his acknowledgment in the Register in Form 6 B and shall not be supplied to any other person on his behalf.]

* Inserted by SRO 380/2000

FORM No. 6 A

(See Sub-rule (3) of Rule 16 A)

Identity Card

1. Name and address of the Society :
2. Member Number :
3 Name and residential address of the Member:
4 Father's/Husband's name :
5 Date of birth of the member :
6 Date of admission as member in the Society :
7 Photograph of the member

Photo to be attested by the authorised officer of the society under seal as per rules.)

8. Signature/Thump impression of the member
9. Date of issue

(Seal of the society)

FORM No. 6 B

(See Sub-rule (3) of rule 16 A

Identity Card

Name and address of the Society :

Member No.	Name & Permenent address of the member	Father"s/ Husband's name of the member	Date of birth of the mem-ber	Date of ad-mis-sion	Space for photograph of the member	Thump impression or signa-ture of the member	Date of issue
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Note:- Photo to be attested by the authorised officer of the Society under seal as per rules.

RULES

[*R16B. **Identity card on request :-** (1) A member who fails to obtain his identity card as provided in R.16A may apply to the Chief Executive or such other officer specially empowered in this behalf by the Committee of a Society for the issue of an identity card.

(2) On receipt of an application under sub-rule(1) the officer specified therein may, if satisfied himself, after such inquiry as he deems fit, as to the correctness of the facts and particulars furnished in such application, issue an identity card to the applicant.

(3) Where such officer is of opinion that the identity card should not be issued, he shall, after affording reasonable opportunity to the applicant to be heard, make an order rejecting the application.

(4) The order shall record the reasons for the refusal and shall be communicated to the applicant.

R16C. Issue of duplicate identity card :- (1) Where an identity card issued to a member under the preceding rules has been lost, defaced or accidentally destroyed or damaged, a duplicate thereof may be issued on application, if the officers specially empowered in this behalf by the Society, is satisfied himself, after such inquiry as he deems fit, about the correctness of the facts and particulars furnished in such application:

Provided that no application shall be rejected without giving the applicant an opportunity of being heard.

(2) Where the original of an identity card for which a duplicate was issued has been recovered later, such original shall be surrendered to the Society for safe custody.

R16D. Appeal :- (1) If any Society refuses to issue identity card to any member the aggrieved person may appeal to the Registrar within fifteen days from the date of receipt of the order of such refusal and the Registrar, shall dispose of such appeal within thirty days of receipt of the appeal.]

CASE LAWS

Possession of an identity card is not a pre-requisite for admission The qualification for admission as a member are laid down in Section 16 of the Act and the Rule 16 of the Rules. Possession of an identity card is not a pre-requisite for admission to membership. Rule 16A which provides for issue of identity cards enacts the evidentiary value of the identity card and not qualification for admission to membership. A member is

* Inserted by SRO 380/2000

qualified to vote by virtue of his status as member. The identity card is but evidence of membership for the purpose of receiving ballot paper. The identity card has been constituted "conclusive evidence" of his membership for the purpose of issue of ballot paper. A member may not be able to vote without producing the identity card. But that does not mean that he is not a member of society. Possession of identity card issued under Rule 16A or 16B is not a necessary condition for acquisition of membership

1994(1) KLT 828 Joseph v/s Kothamangalam Co-operative Marketing Society

Identity Card and Election Rule 16 A : Identity card should be one issued under the Rules - Rules 16 A and 16 B require that the society shall issue identity cards to its members. The members themselves have a right to apply for identity cards if the society does not issue them. The effect of these rules and clause (o) of sub rule (3) of Rule 35 is that a member who does not possess the identity card cannot vote at the elections. The statute has laid down that a member may apply and secure identity cards. If he does not hold identity card, he shall not vote at the elections. This statutory provisions admits of no exception. The identity cards possessed by the petitioners from their employer are not a substitute for the identity cards issued under the statutory rules. The language of clause (o) of sub rule (3) of rule 35 is that "No ballot paper shall be issued to a member unless he produces the identity card". The negative imperative language clearly suggests that this requirement of production of identity cards issued under the rules is mandatory and admits of no exception.

1993 (2) KLJ 89 V. S. S. C. Employees Co-operative Society v/s Registrar and others

Exemption from identity card By exempting certain societies from implementing the introduction of identity card for polls the members of the societies are treated differently. Even after the amended rules, the identity of voters has to be satisfied by polling officer. The Amending rules are not discriminatory. The Rules and the Amending Rules treat all members with or without identity cards even handedly, for, everyone has to prove his identity as member.

1993 (1) KLJ 686 = AIR 1993 Ker 212 P. Vasudevan Namboodiri v/s State

Identity Card and Election Rules 16 A, 16 B etc. - At the time when the process of elections to the committees of thousands of Co-operative Societies were commenced, the provision in regard to identity cards did not exist. The Amending Rules were not intended to be applied to all societies immediately. The legislative intend in regard to the application of the Amending Rules to Societies where the process of election has reached the stage of intimation of the election programme, should be understood in the context of the outer limit fixed for completing the election.Government cannot issue the notification exercising its discretion until the election to the committee were complete.

1993 (1) KLJ 686 = AIR 1993 Ker 212 P Vasudevan Namboodiri v/s State and others

RULES

R17. Restriction on the admission of members in certain types of societies :- In a society formed for the promotion of the economic interest of its members through a specified activity or in a society formed exclusively for the benefit of persons engaged in any particular industry, no person other than one who is likely to be benefited directly by such action or an actual worker in the industry as the case may be shall be admitted in excess of the limit that may be specified in the bye-laws or in any case is excess of 10 per cent of the total number of members in the society.

ACT

S17. Expulsion of members :- (1) Any member of a society, who has acted, adversely to the interests of the society, may be expelled upon a resolution of the general body passed at a special meeting convened for the purpose by the votes of not less than two-thirds of the total number of members present and voting at the meeting.

(2) No member shall be expelled under sub-section (1) without being given an opportunity of making his representation.

(3) A copy of the resolution expelling a member shall be communicated to the member within a period of fifteen days from the date of passing of the resolution.

RULES

R18. Procedure for the expulsion of members:- A member who has acted adversely to the interest of the society may be expelled from the society as per Section 17, adopting the following procedure:-

(a) Where any member of a society proposes to bring a resolution for expulsion of any other member he shall give a written notice thereof, to the Chairman of the society. On receipt of such notice or when the Committee itself decides to being in such resolution, the Committee shall send a registered notice to the member concerned to furnish his explanation, if any, in the matter within 15 days from the date of receipt of the notice. The member shall also be given an opportunity for being heard in person, if he so desires.

(b) On obtaining the explanation, if any, and on being heard in person, if he so desires and on giving opportunity to the complainant, to substantiate his allegation or after taking into consideration any written representation which he might have sent to the Committee or General Body, the committee shall decide as to the course of action to be adopted against the member concerned. If the committee decides to expel the member it shall convene a special General Body meeting after issuing due notice appending the agenda thereto and place the matter before it for decision under section 17.

CASE LAWS

Removal of the three kinds of membership Section. 28 : The provisions in the Act and Rules clearly show that after the constitution of the committee in terms of section 28, the distinction that is maintained till then between a member who is a promoter of the society and a member admitted after the registration of the society, disappears. Thereafter there would be only three types of members namely : (1) members within the meaning of Section 16; (2) nominal or associate members as defined under Section 18; and (3) nominated member coming under Section 31. Sub-rule 3 of rule 16 provides that where a person already admitted to membership is seen to have been ineligible for membership at the time he was so admitted as a member or if he subsequently becomes ineligible for membership, the Committee of the Society may remove the person from membership after giving him an opportunity for making his representation if any, and the person concerned shall thereupon cease to be a member of the society.

1991 (2) ILR 269 = AIR 1991 Ker 405 Kamaluitty and another v/s Assistant District Industries Officer and others

Removal of a member or a promoter Co-operative Societies Act, 1969 (Kerala) - Section 28 - After the constitution of the committee the distinction between a member who is a promoter of a Society and a member admitted thereafter disappears. If promotive member is not qualified to be a member he can be removed. *In this judgment* **1969 ALJ 652 A.N. Saxena v/s DRCSUP** *is distinguished.*

ILR 1991(2) Ker 269 = AIR 1991 Ker 405 Smt. Kamalu Itty an another v/s Assistant District Industries Officer and others

Removal due to dual membership Rules 27 (2) and Rule 44 (1) - Dual membership in two Societies - Action can be taken to oust them as members of the second society only.

On the basis of Rule 27 action can be taken to oust Petitioners as members of the second society, Disqualification of membership of committee is mentioned in Rule 44 (1) which gives specific instances where persons can be disqualified from contesting the election to the society. Dual membership is not a ground for expelling from contesting in the election or becoming a member of the committee.

1997 (2) KLT 253 Natarajan v/s Returning Officer

Member ineligible at the time of admission For removal of a member who is ineligible for membership at the time of his admission or becomes ineligible since then, the procedure envisaged in Rule 16(3) or Rule 16(4) have to be resorted to.

1992 (2) KLJ 91 = 1992 (2) KLT 60 M.J. Mathew v/s State

Automatic expulsion of members Resolution admitting new members set aside without hearing the newly admitted members amounts to the automatic expulsion of those members and is illegal.

1981 KLT SN 14 President C.V.V. Co-operative Society v/s Project Officer

Bye-laws providing for expulsion of members Government were authorised to make Rules for expulsion of members and no such Rules were framed, the Society can make bye-laws providing for expulsion of members. The conferment of a rule making power on the Government under Section 109 (2) is only an enabling provision. It is not possible to conclude that the Society is precluded from framing its own bye-laws touching a matter with respect to which it is otherwise fully competent to frame bye-laws.

1969 KLT 287 Philipose v/s State of Kerala

Question of re-admission of an expelled member A person who is not fitted by character to continue as member, if expelled, becomes ineligible for readmission as member for one year - Question of re-admission of such person, is a matter for the society to decided for itself.

(Madhya Pradesh Co-operative Societies Rules, 1962, Rule 18 (2) and (3))

AIR 1967 MP 211 = 1967 MPLJ 337 = 1967 Jab LJ 385

ACT

S18. Nominal or associate members :- (1) A society may admit any individual as a nominal or associate member.

[* x x x]

[**Provided [*xxx] that a Hospital Co-operative Society may admit any other society as nominal or associate member.

Explanation :- The term Hospital Co-operative Society shall have the same meaning as in the Explanation to the fourth proviso to sub-section (1) of Section 16.]

(2) A nominal or associate member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society or to be elected to the committee of a society.

(3) Save as provided in this section, a nominally or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

S19. Member not to exercise rights till due payment made:- No member of a society shall exercise the rights of a member unless he has made such payments to the society in respect of membership or has acquired such interest in the society, as may be prescribed by the rules or the bye-laws

R20. Payment to be made to acquire rights of a member :- The payments to acquire right of membership shall include-

(i) Admission fee

(ii) Subscription to share capital

(iii) any other payments required to be made under the bye-laws.

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* Omitted by Act 3 of 2002

** Inserted by Act 1 of 2000

CASE LAWS

Failure to pay the additional share value Cooperative Societies Rules, 1969 (Kerala) – Rule 16 (1) (c), Rule 16 (3), Rule16 (4) – Failure to pay the additional share value – Effect of – Until he pays the additional share value, he will not be entitled to exercise any of the rights of a member – Once he is removed from the membership following the procedure under Rule 16 (3) or Rule 16 (4), he ceases to be a member.

The expression "such payments to the society in respect of membership" includes the extra amount to be paid by a member on account of any subsequent amendment to the bye laws increasing the share amount. Hence a member who fails to pay the difference in share value within the stipulated period will remain to be a member in name without any rights of a member until he is duly removed from membership following the procedure laid down under Rule 16 (3) or under Rule16 (4) of the Kerala Cooperative Societies Rules.

2004 (2) KLT 179 = ILR 2004 (2) Ker 502 = AIR 2004 Ker 266 DB Kadakam Service Cooperative Bank Ltd v/s Narayana Bhat

Transfer of Share of a deceased member Co-operative Societies Act, 1969, (Kerala) - Section 25 – Even if a person is nominated, he will be entitled to get the share of the deceased transferred only if he becomes a member of the society – Therefore the nominee or legal heir should also file an application for membership.

The Proviso applies to both the contingencies; in cases where there are nominees and in cases where there are no nominees. Even if a person is nominated, he will be entitled to get the share transferred only, if he becomes a member of the Society. Thus when the question of transfer of share is concerned, the nominee or the legal heir should also file an application for membership. If there is any disqualification for the nominee on the legal heir to become a member of the Society, then the share will not be transferred to such person. Instead, only the value of the share will be given to such person.

2000 (2) KLT 422 Cochin Co-operative Hospitals Society Ltd v/s State of Kerala

Membership prior to sixty days of the election Co-operative Societies Rules, 1969 (Kerala), Rules 26 and 28 – A Person who was admitted to the membership prior to sixty days of the election and who has paid the entire dues before 30 days of the election as per R.28 is entitled to vote.

The member admitted should pay the entire share capital before 30 days of the election for entitling him to vote. On the basis of the clear wording in Rr.26 & 28 we are of the opinion that the concept of 90 days prior to the date of election is completely absent in the rules. Since a person cannot be admitted as a member within sixty days of the election, if any person admitted after that date cannot exercise the right to vote. A person who was admitted to the membership prior to sixty days of the election and who has paid the entire dues before 30 days of the election as per R.28 is entitled to vote. *In this judgment* **1996 (1) KLT 285** *is held obiter and* **1993 (1)**

KLT 293 *and* **1992 (2) KLJ 541** *are followed.*

1999 (2) KLT 826 = 1999 (2) KLJ 120 = AIR 2000 Ker 7 DB K. Jaya Varma v/s Returning Officer

Entire share capital already paid up in full Rules 16 (b) & 16 (1) (c) - Entire share capital already paid up in full - Society cannot admit new members and issue share certificates unless the bye-laws are amended with retrospective effect-Till such admissions are regularised with retrospective amendment of bye-laws, those persons are not entitled to exercise the rights conferred on a member of the bank admitted within the authorised share capital.

Even though the committee in office approved the application submitted by those persons as required under Rule 16 (b) of the Rules, they cannot be legally enrolled to the membership of the bank without payment of the share amount as required under Rule 16(1) (c) and the bye-laws of the bank. *In this judgment* **1990 (1) KLT 695 Krishnan Ezhuthachan v/s Assistant Registrar** *is relied on.*

1996 (1) KLT 27 = 1996 (1) KLJ 66 = ILR 1996 (2) Ker 97 Antony v/s Irinjalakuda Town Co-operative Bank Ltd

Full payment of share capital Co-operative Societies Rules, 1969 (Kerala) - Rule 28 - If the full payment of share capital falls within the period mentioned in Rule 28, the member cannot vote at any meeting falling within 30 days of such payment. *In this judgment* **1985 KLT 836 George v/s State of Kerala** *is referred to and* **1990 (1) KLT 695 Krishnan Ezhuthachan v/s Assistant Registrar** *is partly approved.*

ILR 1993 (2) Ker 710 = 1993 (1) KLJ 1222 = 1993 (1) KLT 114 DB N.K. Vasavan v/s The District Coir Project Officer and others

Meaning of subscription to share capital Rule 20 : Sub clause (ii) of Rule 20 which deals with subscription to share capital would ordinarily mean that a person gets a right of membership if he makes subscription to the share capital, apart from complying with the other sub-clause of Rule 20. The words 'subscription to share capital' do not mean payment of the entire share capital. It will be sufficient if subscription is made in accordance with the mode prescribed in the bye-laws of the society.

1993 (1) KLJ 348 = 1993 (1) KLT 293 = 1993 (1) ILR 710 DB M.K. Vasavan v/s District Coir Project Officer and others

The rights of a member and payments This section provides that no member of a society shall exercise the rights of a member unless has made such payments to the society in respect of membership or has acquired such interest in the society, as may be prescribed by the rules or bye-laws. Rule 20 makes the position clear that the subscription to share capital along with admission fee any other payments required to be paid under the bye-law is the sine-qua-non for acquiring right of a member. Rule 28 provides that no member of a society shall be eligible to vote at the meeting fixed for any election to the Committee of that society unless thirty days prior to the date of such meeting he acquires the number of shares for membership.

1993 (1) KLJ 280 Balakrishnan v/s Returning Officer

Share value in installments Rule 26 & 28 - Persons admitted as members of the society and given the right to pay the share value in installments cannot be denied of voting right in the election to the managing committee of the society on ground that they did not pay full share amount due to the society 60 days prior to the date of election. While Rule 26 imposes prohibition on admission of members within a particular date before the election Rule 28 enables a members of the society to acquire eligibility to vote by payment of the share amount to the society at least 30 days before the date of election. There is no inconsistency between Rules 26 and 28.
1993 KLT 114 = 1993 (1) KLJ 122 = 1993 (2) ILR 699 Vasavan v/s District Coir Project Officer

Enhancement of membership amount Rules 28 and 16 - Bye laws of Society binding on all the Members of the Society, enhancement of membership amount by Amendment of Bye-law. Unless specifically excluded existing members not exempted from paying enhanced amount. No right to included in voters list unless enhanced amount paid.
1992 (2) KLT 673 = 1992 (2) KLJ 969 Jose v/s Registrar of Co-operative Societies

Share money payments Rule 16 and 28 - Share money payments is an important condition for membership. Applicant cannot become a member until the payment of share money. One cannot become a member even if it is approved by the Committee without payment.
1990 (3) ILR 707 = 1990 (1) KLJ 644 = 1991 Cri LJ (97) 2411 Ezhuthachan v/s Assistant Registrar

Payments mentioned in Section 19 Payments made mention in Section 19 relates to those payments which the member in question has to make to the society.
1990 (1) KLJ 644 = 1990 (1) KLT 695 = ILR 1990 (3) Ker 707 V.R. Krishnan Ezhuthachan v/s Assistant Registrar of Co-operative Societies and others

ACT

[*S**20. Vote of members :-** Notwithstanding anything contained in any other provision of this Act or any other law, [**every member] of a society shall have one vote in the affairs of the society:

Provided that-

(a) a member admitted within sixty days immediately prior to the date of election shall not have the right to vote;

(b) a nominal or associate member shall not have the right to vote;

(c) where the Government is a member of the society, each person nominated by the Government on the committee of the society shall have one vote each including

* Substituted by Act 1 of 2000
** Substituted by Ordinance 6 of 2002

the right to vote for election of office bearers of the society;

(d) an ex-officio member on the committee of a society shall have one vote but shall not have right to vote for election of office bearers of the society;

(e) in the case of an equality of votes, the chairman shall have and exercise a seconder or casting vote.

[*xxx]

[*xxx]]

S21. Manner of exercising vote :- (1) Every member of a society shall exercise his vote in person.

(2) Notwithstanding anything contained in sub-section (1), a society or corporation or a statutory or nonstatutory Board, Committee or other body of persons which is a member of another society may, subject to any rules made under this Act, appoint one of its members to vote on its behalf in the affairs of that other society.

RULES

R19. Voting :- A member shall be deemed to have exercised his right to one vote at an election of the Committee of the society, if [#xxx] he expresses the choice in favour of such number of persons as are to be elected [#or in favour of a lesser number of persons to be elected.]

CASE LAWS

Amendment of Active membership has no legal force Cooperative Societies Act, 1969 (Kerala) Section 20 – Provisions in Rule 28 and Rule 35 A (4) have no legal force as they are contrary to provisions contained in Section 20 of the Act.

As per the Proviso to Rule 28 and Rule 35 A (4), only active members shall be eligible to vote. But, the said provisions in the Rules have no legal force as they are contrary to the provisions contained in S.20 of the Act. Therefore, notwithstanding the apparent conflict between the provisions in the Act and the provisions in the Rules,with effect from 4.5.2002 every member of a Society shall have one vote in the affairs of the Society.

2004 (1) KLT 1026 = ILR 2004 (2) Ker 413 = AIR 2004 Ker 329 DB Rajendran v/s State Cooperative Election Commission

Active membership not ultra vires Co-operative Societies (Amendment) Act, 2002 (Kerala) – Amendment of active membership – Is incorporated as an addition to amendment Act I of 2000 – Is not ultra vires and are constitutionally valid.

* Omitted by Ordinance 6 of 2002

Omitted and inserted by Notification No. 510 of 1969

S.20 deals with all general body meetings and not limited to elected general body alone. The second limb of the explanation was also very vague as to what is the nature of involvement in a non-credit society. Therefore, though it is highly desirable to limit the scope of the co-operative movement among those who are actually interested in the movement, the amendment introduced as per Act 1 of 2000 was not capable of combating the situation and the amendment does not go with the scheme of the Act regarding membership, cannot also be said to be in any way unreasonable or ultra vires the Act.

2003 (1) KLT 297 = AIR 2003 NOC Ker 243 Alapuzha District Co-operative Bank Ltd v/s State of Kerala

Deletion of names of members admitted within 90 days of election is illegal Co-operative Societies Act, 1969, (Kerala) - Section109 – Co-operative Societies Rules, 1969 (Kerala), Rules 26 and 28 – Election – Right to vote – Members admitted to membership prior to sixty days of election and who paid entire dues before 30 days of election – Are entitled to vote – Deletion of names of members from voters list on ground that they were admitted within 90 days of election – Held, Illegal.

AIR 2000 Ker 7 DB President, Tiruvalla East Co-operative Bank Ltd v/s Returning Officer, Tiruvalla East Co-operative Bank Ltd

Voting right of nominated and associate members Sections 20 (b) and 31 - Restriction in Rule 20 (b) regarding voting right of nominated and associate members will apply only to societies other than apex and central societies.

Nominees shall have the same power When the Government's participation in a society is substantial, the Government thought it fit to nominate their representatives as members of the committee. The representation also are restricted to 3 or 1/3 of the total members which ever is less. Thus, when a Government participation is substantial, it is incomprehensible that their right in electing the office bearers is to be restricted. A reading of Rule 37 makes the intention of the legislature is very clear to the effect that the nominees shall have the same power, duties, functions and responsibilities as those of the members elected under the bye-laws. In the case of such a clear provision, the restriction that is contemplated under Section 20 (b) has to be read down as to mean other societies than apex and central societies and societies contemplated under Section 28 A. As rightly pointed out, Section 20 deals with the vote in the general body of a society and not in the managing committee.

1996 (2) KLT 942 = 1996 (2) KLJ 289 N. Sudarsanan v/s State of Kerala and others

Removal from voters list and expulsion from membership If a Returning Officer declares a member to be an ineligible voter, he does not expel him hereby from the membership of the society. Section 16 of the Act contemplates about the persons who may become members. Section 17 lays down the power of the general body of the society to expel. Section 19 lays down that no member of a society shall

exercise the right of a member unless in the society as may be prescribed by the rules or the bye-laws. Section 20 of the Act lays down that every member of the society shall have one vote in the affairs of the society. If the Returning Officer declares a member to be an ineligible voter, he does not expel him hereby from the membership of the society. A member who is disqualified as a voter may still continue to be a member of the society, if he is otherwise disqualified to be a member.

1996 (1) KLJ 179 = 1996 (1) KLT 285 = ILR 1996 (2) Ker 19 = AIR 1996 Ker 150 K.V. Vijayakumar v/s Joint Registrar

preclusion of nominated members from voting Co-operative Societies Act, 1969 (Kerala) - Section 20, Clause (b) of the Proviso - Section 31 (3) abrogates Clause (b) of the proviso to Section 20 in so far as the latter precludes nominated members from voting at the elections of the office bearers.

ILR 1994 (3) Ker 837 = 1994 (1) KLJ 819 = 1994 (2) KLT 80 Kumaran and another v/s Government of Kerala and others

Alter enactment in the nominee's right to vote Section 20 - Proviso Clause (b) and Section 31 & Rule 37 (2) of the Rules-Clause (b) of proviso to Section 20 is repugnant to sub-section (3) of Section 31 and Rule 37(2). Sub-section (3) of Section 31 by its re-enactment in 1987 is alter enactment in so far as the nominee's right to vote is concerned. In such cases the rule of interpretation is that the earlier enactment stands abrogated. Proviso to clause (b) in so far as it precludes nominated members from voting at the election of the officer bearer. *In this case* **1975 KLT SN 49 C.M. Gheevarghese v/s The Deputy Registrar of Co-operative Societies and others** *is distinguished.*

1994 (2) KLT 80 = 1994 (3) ILR 837 = 1994 (2) KLJ 819 Kumaran v/s State of Kerala

No-confidence motion Co-operative Societies Act, 1969 (Kerala) - Section 31 - Nominated members have right to vote on all matters except no-confidence motions.

ILR 1994 (2) Ker SN 30 =1994 (1) KLJ 819 = 1994 (2) KLT 80 E.V. Kumaran and another v/s Government of Kerala and others

Nominated members can stand for election The person nominated by the Deputy Registrar under Section 31 have no right to vote in the election of office bearers. But they can stand for election as office bearer of society. *This judgment was distinguished in* **1994 (2) KLT 80 = 1994 (1) KLJ 819** *See also* **1996 (2) KLT 942 = 1996 (1) KLJ 289.**

O.P. No. 1585/75 = 1975 KLT SN 49

Payment of share value in installments Persons admitted as members of the society and given the right to pay the share value in installments cannot be denied of voting right in the election to the managing committee on the ground that they did not pay full share amount due to the society 60 days prior to the date of election. Rule 16 lays down the conditions to be complied with for admission to membership. Rule 20

deals with payment to be made to acquire the right of a member. Sub-clause (ii) of Rule 20 which deals with subscription to share capital would ordinarily mean that a person gets a right of membership if he makes subscription to share capital, apart from complying with the other sub-clauses of Rule 20. The words subscription to share capital do not mean payment of the entire share capital. It will be sufficient if subscription is made in installments as prescribed in the bye-laws. In a case where Rule 16 has been complied with by making proper application by payment of Re.1/- towards the application fee, and the payment of the particular installments of share capital as provided in the bye-law and where the said application is approved by the committee. There can be no doubt the membership will start from that date. The right to vote must be distinguished from admission as a member. *In this judgment* **1993 (1) KLT 114 = ILR 1993 (2) Ker 699** *is confirmed and* **1990 (1) KLT 695** *is partly overruled.*

1993 (1) KLJ 348 = 1993 (1) KLT 293 Vasavan v/s District Coir Project Officer

Sine qua non for acquiring right of a member Section 19, Rule 20 and 28 - Under Rule 20, subscription to share capital, admission fee and any other payments required to be paid under the bye-law is the sine qua non for acquiring right of a member. Under Rule 28, no member shall be eligible to vote at the meeting fixed for any election to the committee unless he acquires the number of shares for membership thirty days prior to the date of such meeting.

1993 (1) KLJ 280 Balakrishnan and another v/s Returning Officer and others

Minimum requirement for voting is membership Section 21 has to be read and understood to mean that the minimum requirement for voting on behalf of the society is that he should be a member of society. It might however, be open to the Federation, to which the society is affiliated to fix a qualification that the delegate who wants to cast vote at the election should not only be a member, but also director.

1984 KLT 853 John v/s Kerala State CRMF Ltd

Nominees have the same right Nomination made by the Government to the Board of Directors of Society pursuant to the power conferred by the bye-laws of the society - restriction contained in the section do not apply to such nominees. Nominees have the same right as those of an elected member.

1970 KLT 561 Pavithran v/s State

ACT

[*S**22. Restriction on holding shares :-** (1) In any society no member other than the Government, any statutory or nonstatutory Board, Committee or Corporation approved by the Government in this behalf or any other society, shall hold more than such portion of the total share capital of the society, not exceeding one fifth thereof, as may be prescribed:

Provided that the Government may, by notification in the Gazette, specify in respect of any class of societies a higher maximum than one fifth of the share capital.]

* Substituted by Act 1 of 2000

NOTIFICATIONS

Since the monetary restriction has been abandoned by the amendment Act 1 of 2000, notifications allowing higher monetary limits for holding shares have become irrelevant; and hence such notifications are not reproduced here.

Exemption to Rubber Board

Government of Kerala hereby approve the Rubber Board, which is a statutory Board, to hold share capital in Co-operative Societies exceeding the limit prescribed in the said Section of the said Act.

SRO. No. 339/73 Notification No. 10293/C3/73-3 dated 11-5-1973 in K.G. No. 22 dated 29-5-1973

ACT

S23. Restrictions on transfer of share or interests :- (1) The transfer of a share or interest of a member in the capital of a society shall be subject to such conditions and restrictions as to the maximum holdings as are specified in section 22.

(2) No transfer by a member of his share or interest in a society shall be valid unless-

(a) the member has held such share or interest for not less than three years; and

(b) the transfer is approved by the committee of the society.

S24. Restriction on withdrawal of shares:- Subject to the other provisions of this Act, no withdrawal by a member of his share in a society shall be valid unless-

(a) the member has held such share for not less than three years; and

(b) such withdrawal is in accordance with the bye-laws of the society.

NOTIFICATIONS

The Government are pleased to exempt Co-operative Marketing Societies, Co-operative Marketing Federation dealing in Rubber from the provision of Section 24 of the Kerala Co-operative Societies Act, so as to enable the Rubber Board to withdraw share capital held by them in accordance with the rules formed by the Board in this regard.

G.O.(MS) 87/73/AD dated 16-3-1973 in K.G. dated 3-4-1973

ACT

S25. Transfer of interest on death of members:- (1) On the death of a member of a society, the society shall transfer the share or interest of the deceased member to the person or persons nominated in accordance with the rules or the bye-laws or, if no person has been so nominated, to such person as may appear to the

Committee to be the heir or legal representative of the deceased member.

Provided that such nominee, heir or legal representative, as the case may be, is admitted as a member of the society:

Provided further that nothing in this sub section shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise the share or interest of a deceased member in a society.

(2) Notwithstanding anything contained in sub-section (1), and such nominee, heir or legal representative, as the case may be, require the society to pay to him the value of the share or interest of the deceased member ascertained in accordance with the rules or the bye-laws and the society shall pay the amount to the nominee, heir or legal representative, as the case may be, on receipt of such requisition.

(3) A society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(4) All transfers and payments made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

S26. Liabilities of past member or of estate of deceased member :- (1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a society for the debts of the society as they existed-

(a) in the case of a past member, on the date on which he ceased to be a member.

(b) in the case of the deceased member, on the date of his death; shall continue for a period of two years from such date.

(2) Where a society is ordered to be wound up under section 71, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member, or death, as the case may be.

RULES

R21. Valuation of shares of a deceased member :- If a member dies, the sum representing the value or his share or interest in the capital of the society payable to his nominee, heirs or legal representative, as the case may be, shall be ascertained in the following manner;-

(i) In the case of a society with unlimited liability it shall be the actual amount received by the society in respect of such share or interest.

(ii) In the case of the society with limited liability, it shall be the amount arrived at by a valuation based on the financial position of the society as shown in the last audited Balance

Sheet, provided that the amount so ascertained shall not exceed the actual amount received by the society in respect of such share or interest.

R22. Shares not to be hypothecated to society :- The shares of a society shall not be hypothecated to that society or any other society by the members as a security for a loan.

R23. Nomination of an Heir :- (1) A member of a society may nominate a person to whom, in the event of his death, his share or interest in the capital of the society shall be transferred or the value thereof or any other moneys due to him from the society shall be paid. Such member may from time to time vary or revoke such nomination and any other nomination made in accordance with the rules.

(2) The nomination made for the purpose shall be-

(a) in writing signed by the member making it, and attested by at least two witnesses, each of whom has seen the member signing it; and

(b) registered in the books of the society kept for the purpose.

CASE LAWS

Death of the member of the Society Cooperative Societies – Death of the member of the Society – His share or interest in the Society shall, in the absence of a nominee, be transferred to a person who appears to the Board to be entitled to in accordance with Rules.

The appellant being one of the heirs of the deceased member was and still is entitled to succeed to the estate of the deceased member as per the mandatory provisions of the statutes and that being so the right, title and interest of the deceased member in the apartment of the Society devolves upon his heirs and in that background, S.85 (3) and R. 135 (5) neither have nor can have any application in the instant case because there cannot be any manner of doubt that on the death of a member of a Society his share or interest in the Society shall, in the absence of a nominee, be transferred to a person who appears to the Board to be entitled to in accordance with Rules, possession of such interest as part of the estate of the deceased member and herein in the instant case the son who himself is admittedly not a member of the Society in question or any other Housing Society became entitled to be considered for such allotment immediately he gave notice to the appropriate authority which too long before the alleged reallotment was said to have been made.

2004 (2) KLT SN 68 = 2004 (5) SCC 90 = AIR 2004 SC 2271 DB Gayatri De v/s Mousumi Cooperative Housing Society

Legal heir should file an application Even if a person is nominated, he will be entitled to get the share of the deceased transferred only if he becomes a member of the society. Therefore the nominee or legal heir should also file an application for membership.

The Proviso applies to both the contingencies; in cases where there are nominees and in cases where there are no nominees. Even if a person is nominated, he will be entitled to get the share transferred only, if he becomes a member of the Society. Thus when the question of transfer of share is concerned, the nominee or the legal heir should also file an application for membership. If there is any disqualification for the nominee on the legal heir to become a member of the Society, then the share will not be transferred to such person. Instead, only the value of the share will be given to such person.

2000 (2) KLT 422 Cochin Co-operative Hospitals Society Ltd v/s State of Kerala

Transfer will be decided by the society The intention of Section 30 is to provide for who has to deal with the Society on the death of a member and not to create a new rule of succession. Thus, the provision for transferring a share and interest to a nominee or to the heir or legal representative as will be decided by the society is only meant to provide for interregnum between the death and the full administration of the estate and not for the purpose of conferring any permanent right on such a person to a property forming part of the estate of the deceased. The idea of having this section is to provide for a proper discharge to the society without involving the society into unnecessary litigation which may take place as a result of dispute between the heirs or uncertainty as to who are the legal heirs or representatives. Even when a person is nominated or even when a person is recognised as an heir or a legal representative of the deceased member, the rights of the persons who are entitled to the estate of the interest of the deceased member by virtue of law governing succession are not lost and the nominee or the heir or the legal representative recognised by the society, as the case may be, holds the share and interest of the deceased for disposal of the same in accordance with law. It is only as between the society and the nominee or heir or legal representative that the relationship of the society and its member is created and this relationship continues and subsists only till the estate is administered either by the person entitled to administer the same or by the Court or the rights of the heirs or persons entitled to the estate decided in a Court of law. Thereafter the society will be bound to follow such decision.

(Maharashtra Co-operative Societies Act (24 of 1961), Section 30)

AIR 1982 Bom 482

RULE

R24. Right to obtain documents from Registrar's Office :- (1) Any person may on payment of fees at the rates as may be prescribed by the Registrar obtain a certified copy of any public document not being a document privileged under the Indian Evidence Act, filed in the office of the Registrar, provided that no such person shall be entitled to the supply of such copy unless he satisfies the Registrar that he requires it to seek redress in any matter in which he is aggrieved or for any other

lawful purpose.

(2) The application fee shall be paid in the shape of Court Fee Stamps.

(3) Along with every application for copies, copying sheets of the prescribed value for preparing the copies shall be supplied.

Note :- Each statement, account, report, petition, order or the like shall be treated as a separate document and shall be written on separate copying stamp paper.

(4) Copies must be transcribed only on the front page of every copying paper.

NOTES

In respect to the previleged documents, relevant portions of the Indian Evidence Act are reproduced hereunder.

INDIAN EVIDENCE ACT

CHAPTER IX
OF WITNESSES

S.123. Evidence as to affairs of State :- No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the Department concerned, who shall give or withhold such permission as he thinks fit.

S.124. Official communication :- No public officer shall be compelled to disclose communication made to him in official confidence, when he considers that the public interest would suffer by the disclosure.

The Right to Information Act, 2005 of the Central Government, repealing The Freedom of Information Act, 2002 is the last development in the right to obtain records. Some portions of this Act of 31 sections are reproduced below.

THE RIGHT TO INFORMATION ACT, 2005

CHAPTER I
PRELIMINARY

S.2 (f). "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

S.4. Obligations of public authorities :- (1) Every public authority shall-

(a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated.

(b) publish within one hundred and twenty days from the enactment of this Act, -

(i) the particulars of its organisation functions and duties;

(ii) the powers and duties of its officers and employees;

(iii) the procedure followed in the decision making process, including channels of supervision and accountability;

(iv) the norms set by it for the discharge of its functions;

(v) the rules regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

(vi) a statement of the categories of documents that are held by it or under its control;

(vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advise, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meeting are accessible for public;

(ix) a directory of its officers and employees;

(x) the monthly remuneration received by each of its officers and employees including the system of compensation as provided in its regulations;

(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

(xiii) particulars of recipients of concessions, permits or authorisations granted by it;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the numbers, designations and other particulars of the public information officer;

(xvii) such other information as may be prescribed;

and thereafter update these publications every years;

(c) publish all relevent facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or quasi judicial decisions to affected persons.

(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of Clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of these Act to obtain information.

(3) For the purpose of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

Explanation :- For the purposes of sub-section (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, news papers, public announcements, media broadcasts, the interenet or any other means, including inspection of officers of any public authority.

S.8. Exemption from disclosure of information :- (1) Notwithstanding anything contained in these Act there shall be no obligation to give any citizen,-

(a) information, disclosure of which would prejudicially affect the soveignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) information which has been expressly forbidden to be published by any Court of Law or Tribunal or the disclosure of which may constitute contempt of court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information received in confidence from a foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public

Information Officer or the Appellate Authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in desclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of Clauses (a), (c) and (i) of Sub-section (1), any information relating to any occurance, event or matter which has taken place, occured or happened twenty years before the date on which any request is made under Section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

S.22. Act to have overriding effect :- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 (19 of 1923), and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

CASE LAWS

Right to get copy of enquiry report Cooperative Societies Rules, 1969 (Kerala) – Rule 24 – Right to get copy of enquiry report – Any person may on payment of fees at the rates as may be prescribed by the Registrar obtain a certified copy of any public document – Only exception is "a document privileged under the Indian Evidence Act" – The said report is not such a privileged document – Held, the appellant is entitled to a copy of the document.

2004 (1) KLT 182 = 2004 (1) KLJ NOC 29 = AIR 2004 Ker 152 DB Abbas v/s Joint Registrar of Cooperative Societies

Urgent Copy of orders Rules 239 (3) and 246 – Application for urgent copy of order should contain reason or ground for such precedence.

R.246 provides that preparation of all copies of documents applied for as far as possible shall be undertaken in accordance with the serial order of the application except when the Judge makes an order for precedence as regards any particular application. To give a copy urgently the Judge concerned shall make an order for precedence concerning the particular application. To enable the Judge to make such order for precedence the particular application shall contain reason or ground for such precedence. Otherwise the Judge will not be able to order precedence. Petitioners have to make sufficient reason including as to whether they intend to file revision or appeal so that copy can be given expeditiously.

2000 (2) KLT SN 87 P 81 = 2000 (1) KLJ 944 = AIR 2000 Ker 355 Sugunan v/s Ambujakshan

Right to obtain records from the office of the Registrar Rule 24 - Based on enquiry under Section 66 direction to Society to cancel appointments made in the Bank - On application, the Bank is entitled to a copy of the report.

Rule 24 provides for a procedure for applying for copies and furnishing of such copies in case the applicant is able to satisfy the Registrar that be requires such documents to seek redress in any matter in which he is aggrieved or for any other lawful purpose. When Rule 24 makes a person entitled for a copy when the Registrar is satisfied that it is essential for him to redress his grievance, the Registrar has no other go but to furnish the report if the applicant remits necessary fees, and produces copying sheets. In the light of Rule 24, the petitioner is entitled to copy of the report. The petitioner is only told that there are adverse findings against the petitioner in the report. But, the report is not disclosed to him. When action is taken on the basis of findings pointing out the understanding of the findings by the Joint Registrar, it is possible for the petitioner to challenge that understanding and to canvass that the findings are in his favour before any action is finalized to terms. When an action is taken and the Board of Directors is directed to cancel the appointments made by them, they should have been given an opportunity to substantiate that there is no such finding in such report warranting such cancellation, unlike in the proceedings under Section 32 as deal with in the two decisions cited by the Government Pleader. *In this judgment* **1997 (2) KLT 522 State of Kerala v/s Sudarsanan** *and* **1993 (2) KLJ 197 M.M. Abdul Rahiman & others v/s Joint Registrar and others** *are distinguished.*
1998 (1) KLT 802 = 1998 (1) KLJ 735 Mukkon Service Co-operative Bank Ltd v/s Joint Registrar

RULES

R25. Members' right to inspect the accounts in the Society :- (1) Any member of a registered society may, at any time during office hours and on payment of such fee as may be prescribed, by himself or by an agent who is a member specially authorised by him in writing, inspect the accounts of the society in so far as they relate to his transactions with it.

(2) The member shall pay to the society a fee for inspection at the rates specified in the bye-laws provided that such rates shall not in any case exceed:-

(a) [*Rs.25] for any one Co-operative year to which the accounts to be inspected relate.

(b) [*Rs.15] for every such additional Co-operative year.

(c) [*Rs.100] for any one member at any one such inspection irrespective of the number of years.

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*Substituted by SRO. 380/2000

R26. Prohibition on admission of members and transfers of shares on the eve of general meeting :- [*(1) No society shall admit members or approve the transfer of shares within sixty days prior to the date of election or the date of the general body meeting;]

(2) Any person admitted as member and any person in whose favour the transfer of shares have been approved in contravention of this rule shall not have the right to membership or the right to vote at the said [*election or at the general body meeting.]

CASE LAWS

Members admitted within ninety days of election Co-operative Societies Act, 1969, (Kerala) - Section109 – Co-operative Societies Rules, 1969 (Kerala), Rules 26 and 28 – Election – Right to vote – Members admitted to membership prior to sixty days of election and who paid entire dues before 30 days of election – Are entitled to vote – Deletion of names of members from voters list on ground that they were admitted within 90 days of election – Held, Illegal.

AIR 2000 Ker 7 DB President, Tiruvalla East Co-operative Bank Ltd v/s Returning Officer, Tiruvalla East Co-operative Bank Ltd

Membership and entitlement to vote Co-operative Societies Rules, 1969 (Kerala), Rules 26 and 28 – A Person who was admitted to the membership prior to sixty days of the election and who has paid the entire dues before 30 days of the election as per R.28 is entitled to vote.

The member admitted should pay the entire share capital before 30 days of the election for entitling him to vote. On the basis of the clear wording in Rr.26 & 28 we are of the opinion that the concept of 90 days prior to the date of election is completely absent in the rules. Since a person cannot be admitted as a member within sixty days of the election, if any person admitted after that date cannot exercise the right to vote. A person who was admitted to the membership prior to sixty days of the election and who has paid the entire dues before 30 days of the election as per R.28 is entitled to vote. *In this judgment* **1996 (1) KLT 285** *is held obiter and* **1993 (1) KLT 293** *and* **1992 (2) KLJ 541** *are followed.*

1999 (2) KLT 826 = 1999 (2) KLJ 120 = AIR 2000 Ker 7 DB K. Jaya Varma v/s Returning Officer

Transfer of shares Rule 26 A - Any person in whose favour transfer of shares has been approved in contravention of the rule shall not have the right to membership or the right to vote at the said election or at the general body meeting. The intention in making a prohibition in Rule 26(2) is clear that a member disqualified under that Rule will not be entitled to vote at the 'said election' even if the election originally held is postponed or adjourned due to any reason beyond the control of the managing

*Substituted by SRO. 1485/1989

committee or the returning officer. *In this case* **1974 KLT 783** *is overruled.*

1993 (1) ILR 465 DB Madhavan Namboordiri v/s Kumaran and others

Person admitted within sixty days of election has no right to vote Rule 26(2) - Any person admitted as member in violation of the Rule within sixty days, prior to a general body meeting or a meeting convened for the purpose of the election has no right to vote at that meeting. Election has to be conducted on the basis of the voters list as it stood sixty days before the date of election as fixed by the resolution even if the election is held on later dates.

1992 (2) KLJ 541 M.S. Paul and another v/s Alakode Service Co-operative Bank and others

Restriction is only to admission of members within sixty days prior to the date of election Rules 26 and 35 - A returning officer becomes functus officio after the procedures of the election are over. Person who become members mean-while can also participate in the election and the only prohibition is for persons enrolled within 60 days of that election. There is no provision in the Act or Rules enabling the court to fix a date, time and place for the conduct of the election. In cases a resolution has to be adopted that can be done only in a meeting held sixty days in advance of the date of expiration of its terms. The term of the Managing committee has already expired and the question of passing a resolution sixty days prior to the expiry does not arise in this case. The society being under the management of an administrator, he has to pass a resolution fixing the date, time and place of election. The prohibition contained in Rule 26 is only in inducting members within sixty days prior to the date of election. A reading of rules 26 and 35 together would thus appear that there is no bar in admitting members to the society at any time before sixty days prior to the date of election. Considerable change has been made in rule 26 by the amendment of 1989. The prohibition earlier was to admit members or approve transfer of shares within 30 days prior to the date of issue of notice for general body meeting. After the amendment the restriction is only to admission of members within sixty days prior to the date of election.

1992 (2) KLJ 541 M.S. Paul and another v/s Alakode Service Co-operative Bank and others

When election is held on a latter date Any person admitted as member in violation of the rule within sixty days, prior to a general body meeting or a meeting convened for the purpose of election has no right to vote at that meeting when the election is postponed by Returning Officer due to any reasons also the election has to be conducted on the basis of the voters list as it stood sixty days before the date of election as fixed by resolution even if the election is held on a latter date.

1992 (2) KLJ 541 M.S. Paul v/s Alakode Service Co-operative Bank

Transfer of shares not admissible within ninety days of election Rules 26 (1) and 35 (1) - The scheme of the Act and the Rules and the detailed provisions for

the conduct of elections to the committee of a Co-operative Society are intended to ensure free and fair election and to uphold the democratic principles underlying the Co-operative movement. Rule 26(1) read with Rule 35(1) states that no registered society shall admit members or approve transfer of shares within 90 days of the date of expiration of the term of the committee. Thus, no new member can be admitted on or after first of April of the year in which the term expires.

1986 (1) ILR 407 = 1985 KLJ 917 = 1985 KLT 836 DB PK George v/s The Joint Registrar of Co-operative Societies, Calicut and others

Membership continues even if voting right is denied Rule 26 (2) - Any person admitted in contravention of Rule 26 (1) shall not have (a) the right to membership (b) the right to vote at the said general meeting or at any meeting held subsequent thereto for the purpose of election. The membership itself is not effaced. The membership continues but some rights alone are suspended. The said members cannot participate in the next election meeting or vote at any of those meetings. Thereafter, the memberships will continue in all its vigour and strength.

1985 KLJ 917 = 1985 KLT 836 = 1985 (1) KLN 537 = 1986 (1) ILR 407 DB PK George v/s The Joint Registrar of Co-operative Societies, Calicut and others

Even after postponement electoral roll should remain the same The intention behind the prohibition contained in Rule 26 of the rules can only be that there must be some amount of certainly about the voters who constitute the electorate for election, once it is contemplated. When electoral process interrupted and poll postponed to subsequent date, electoral roll should remain the same and newly enrolled members cannot vote.

1984 KLT 628 = 1984 KLJ 380 Valsaraj v/s Joint Registrar

Persons admitted within thirty days of election Co-operative Societies Rules, 1969 (Kerala) - Rules 26 and 35 (3) (b) - Persons admitted to membership within 30 days prior to the date of issue of notices for the election shall have no right to vote. There is no conflict between the provisions in rule 26 and 35 (3) (b). *In this judgment* **1979 KLT 528 Thankappan and others v/s Co-operative Tribunal** *is referred to.*

ILR 1984 (1) Ker 42 = 1984 KLT 488 = AIR 1984 Ker 78 = 1983 KLN 433 Bhaskaran K.M. v/s Returing Officer

Persons admitted within thirty days of issue of election notice Those who are enrolled within 30 days prior to the date of issue of notice for general meeting are not entitled to vote. Rule 26 and Rule 35 (3) (b) are not inconsistent.

1984 KLN 443 = 1984 KLT 488 Bhaskaran v/s Returning Officer

A proper electoral roll is the fundamental factor of an election Election conducted in violation of Rule 26 - Alternative remedy of election petition is not a bar - The mandate contained in Rule 26 is in the nature of an "injunction" or "command" against the registered society that no registered society shall admit

members or approve the transfer of shares within 30 days prior to the date of notice for general body meeting. A proper electoral roll should be maintained and that is a "fundamental factor"-scope discussed.

1983 KLT 1038 = AIR 1984 Ker 26 = 1983 KLN 641 Govindan v/s Deputy Registrar of Co-operative Societies

Rule 26 is mandatory Requirements of Rule 26, are mandatory and inclusion of person in violation of the provisions of Rule 26, and allowing such persons to exercise the right of vote vitiated the election.

1983 KLT 627 = 1983 KLN 417 Rajachandran Pillai v/s Gireesan

RULE

R27. Prohibition of membership in two credit or housing societies :- (1) A person applying for admission as a member of any credit society (not being a Land Mortgage Bank, Housing Mortgage Bank or Financing Bank) or a housing society shall be admitted as such member only with the previous sanction in writing of the Registrar, if on the date of such application such person is a member of any other such credit or housing society. Such Sanction may be accorded by the Registrar either in relation to any individual credit or housing society or in relation to class of credit or housing societies.

Explanation :- In this rules :-

(i) "House Mortgage bank" means a society which has as its principal object the provision of long-term credit primarily on the mortgage of house.

(ii) "Land Mortgage Bank" means a society which has its principal object the provision of long-term credit primarily on the mortgage of agricultural lands.

(2) Where a person has become a member of any society referred to in sub-rule (1) in contravention of the provisions of that sub-rule, such society shall remove him from membership upon a written requisition from Registrar.

R28. Restriction on the right of vote at the election:- (1) No member of a society shall be eligible to vote at the meeting fixed for any election to the committee of that society, unless [*60 days] prior to the date of such meeting he acquires the number of shares for membership as may be provided in the bye-laws of the society of which he is a member.

[*Provided that only active members as defined in section 20 of the Act shall be eligible to vote.

(2) (a) A register in form No. 32 in the case of credit societies and in form No. 33 in the case of other societies shall be maintained by every society. The chief executive of the society shall be responsible for the proper maintenance of the register.

(b) The details with regard to each and every member of a society shall be

*Substituted by SRO. 380/2000

made up to date and placed before the committee within 90 days on completion of every co-operative year.

(c) The committee will examine and certify the register as to the details so recorded by the chief executive at the close of each co-operative year.

(d) The chief executive of the society shall furnish a certificate to the Registrar, as to the up to date maintenance of the register within 3 months of the close of the year.

(e) The voters list for the conduct of election to the committee of the society shall be prepared on the basis of the register so maintained in the society. For this purpose, the details of members as stood 60 days prior to the date of election shall have to be incorporated in the register and certified as such by the committee.]

***FORM 32**

REGISTER OF ACTIVE MEMBERS

(See Rule 28 (2) (a)

Name of Co-operative Society / Bank **CREDIT SOCIETIES**

Sl.No.	Year	Name	Member No.	Share Amount	Deposit		Loan		No. and date of Loans as surety	Attendance in G.B.	Date on which the committee verified the details	Initials of Chief Executive	Initials of President
					Natue of Deposit	Deposit No. and date	Loan No.	Date of Loan					
1	2	3	4	5	6	7	8	9	10	11	12	13	14

Note : Sufficient space may be provided for entering the details of 5 years each for every member in the register

***FORM 33**

REGISTER OF ACTIVE MEMBERS

(See Rule 28 (2) (a)

Name of Co-operative Society **NON-CREDIT SOCIETIES**

Sl.No.	Year	Name	Member No.	Share amount	Main objects of the society in which he/ she participated (specify details)	Attendance in G.B.	Date on which the committee verified the details	Initial of Chief Executive	Initial of President
1	2	3	4	5	6	7	8	8	10

Note : Sufficient space may be provided for entering the details of 5 years each for every member in the register

* The amendment in Rule 28 (2) (a) has rendered these forms with a purposelessness.

CASE LAWS

Disqualification at the time of admission and subsequent acquisition Petitioner obtaining membership in another society while being member of another one is illegal-Cannot escape action by resigning membership in the former at the time of initiation of action. A reading of Rule 16(3) and (4) would show that the statutory provision is crystal clear that a person become ineligible for both reasons of dual membership either at the time of admission in the society or subsequent acquisition of membership in the society. So long as there is no dispute on the factual position that the petitioner had another membership at the time of his admission in the society petitioner loses defence since the mandate in the Rule is "where a person already admitted to membership is seen to have been ineligible for membership at the time he was so admitted to member or if he subsequently becomes ineligible for membership the Committee of the Society may remove the person from membership after giving him an opportunity for making his representation if any, and the person concerned shall thereupon cease to be a member of the society". It is not in dispute that petitioner was a member of another Society at the time of obtaining membership in the second respondent Society. Petitioner's contention is that subsequently he resigned from the membership of that society and at the time of initiation of action he has membership in the present Society. That cannot save the petitioner. Here the disqualification relates back to the moment of membership, though the cessation takes effect only from the date of removal. *This judgment was confirmed in the judgement in* **WA.No.1517/2002** *Dated* **27.6.02 = ILR 2002 (2) Ker 303.**

2002 (2) KLT 113 Kunhiraman Nair v/s Joint Registrar

Deemed cessation of membership in respect of the subsequent society only A member of housing society getting himself enrolled as a member of another housing society. In such circumstances, deemed cessation of his membership under Rule held would be only in respect of the subsequent society and not in respect of the original society. Court further observed that it is a cardinal principle of constructions of a statute or the statutory rule that efforts should be made in construing the different provisions, so that, each provisions will have its pay and in the event of any conflict a harmonious constructions should be given.

(Delhi Cooperative Societies Rules Rule 24, 25 (1) (c) (iii) and 28)

1997 (4) SCC 435 = AIR 1997 SC 2239 Jagadish Singh v/s Lt. Governor

Removal from second society Dual membership in two societies - Action can be taken to oust them as member of the second society. In Rule 27 there is a prohibition of membership in two credit or housing societies. But the remedy for being a member of the two societies are also provided under Rule 27 (2).

1997 (2) KLT 253 Natarajan v/s Returning Officer

Ultra vires Bye-law authorising dual membership is ultravires.

(Travancore Co-operative Societies Act (5 of 1112 ME), Section 90(4))

AIR 1955 NUC (TC) 1182

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No. MT(2)2306/2001 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 30.1.2001

CIRCULAR NO. 19/2001

Sub : **Artisans Development Co-operative Limited 4429 permission from Registrar of Co-operative societies to collect shares**

from Co-operative Societies - orders issued - regarding

Ref : **1. Resolution No. 15 dated 3-10-2000 of the society**
2. Letter N. CRS. 393/2001 dated 17.1.2001 of the Joint Registrar, Thiruvananthapuram.

In the resolution cited Ist above the Managing Committee of the Artisans Development Co-operative Limited 4429 has requested to issue necessary permission to all co-operative Societies in the state to take share in the above society. As per clause 4(i)(d) of the byelaws of the above society all co-operative Institutions may subscribe share in the society.

According to Section 57(c) of the Kerala Co-operative Societies Act, 1969 Co-operative Societies can invest in the shares or securities of any other Society approved for the purpose by the Registrar. The Joint Registrar of Co-operative Societies (General). Thiruvananthapuram has also recommended the proposal. The proposal was examined in detail with reference to the provisions of the Kerala Co-operative Societies Act.

In the circumstances all the Co-operative Societies coming under the administrative Control of the Co-operative Department except those coming under the purview of Banking Regulation Act are permitted to take shares in the Artisans Development Co-operative Society Limited No. 4429 subject to the bye-laws provisions and Board Resolutions of the Societies concerned.

Registrar of Co-operative Societies

No.M.T.(2)24675/02 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 23.07.2002

CIRCULAR No. 28/2002

Sub : **Co-operative Department-Kerala State Co-operative Tourism Development Centre Ltd. No: 4391. Taking share permission issued - Regarding**

Ref : **Resolution No. 5 dated, 1.6.2002 of the Administrator of the Kerala Co-operative Tourism Development Centre 4391**

In the resoultion cited above the Administrators of the Kerala State Co-operative Tourism Development Centre Ltd. No:4391 has requested to issue necessary permission to all Co-operative Societies in the state to take share in the above society. As per clause 4 of the bye-laws of the above society Co-operative Institution may be permitted to subscribe shares in the above Society.

According to Section 57(c) of the KCS Act 1969 Co-operative Societies can invest in the shares or securities of any other Society approved for the purpose by the Registrar. The proposal was examined in detail with reference to the Provision of the KCS Act. The Joint Registrar (General) Thiruvananthapuram has also recommended the proposal.

In the circumstances all the Co-operative Societies (except those coming under the provision of Banking Regulation Act) in the State coming under the Administrative Control of the Co-operative Department are permitted to take shares in the Kerala State Tourism Development Centre Ltd. No: 4391. Subject to the bye-law provision and Board Resolution of the Society.

J. Raveendra Raju
Registrar of Co-operative Societies in Charge

നമ്പർ ജി. (2) 17251/2002

സഹകരണ സംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തിയതി 16.8.2002

സർക്കുലർ നമ്പർ 31/2002

വിഷയം : **സഹകരണ വകുപ്പ് ഓഫീസുകളിൽ ലഭിക്കുന്ന അപേക്ഷകൾക്ക്/ നിവേദനങ്ങൾക്ക് കൈപ്പറ്റുരസീത് നൽകുന്നത് നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നതു സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 2.1.89 ലെ 2/890 ാം നമ്പർ സർക്കുലർ**
2. സർക്കാരിന്റെ 7.12.95 ലെ 21124/ഡി2/95/ഉഭപവ. നമ്പർ സർക്കുലർ
3. സർക്കാരിന്റെ 1.4.02 ലെ 1730/ഡി2/02 ഉഭപവ. നമ്പർ സർക്കുലർ

പൊതുജനങ്ങളിൽ നിന്നും ലഭിക്കുന്ന പരാതികളിൻമേൽ യഥാസമയം നടപടികൾ സ്വീകരിക്കുന്നതു സംബന്ധിച്ച് നിർദ്ദേശം സൂചന ഒന്നിലെ സർക്കുലർ പ്രകാരം നൽകിയിരുന്നു. പൊതുജനങ്ങളിൽ നിന്നും സർക്കാർ ഓഫീസുകളിൽ ലഭിക്കുന്ന പരാതികൾ, നിവേദനങ്ങൾ, അപേക്ഷകൾ മുതലായവയ്ക്ക് അവ കിട്ടിയിലുടൻ കൈപ്പറ്റു രസീത് നൽകണമെന്ന് സൂചന രണ്ടിലെ സർക്കുലർ പ്രകാരം നിർദ്ദേശം നൽകിയിരുന്നെങ്കിലും ഇക്കാര്യം ക്യത്യമായി പാലിക്കുന്നില്ലായെന്ന് സർക്കാരിന്റെ ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ട്. ആയതിനാൽ പൊതുജനങ്ങളിൽ നിന്നും ലഭിക്കുന്ന പരാതികൾ, നിവേദനങ്ങൾ, അപേക്ഷകൾ മുതലായവ ലഭ്യമായാൽ ഉടൻതന്നെ കൈപ്പറ്റു രസീത് ക്യത്യമായി നൽകണമെന്ന് സൂചന മൂന്ന് സർക്കാർ സർക്കുലർ (ഇതോടൊപ്പം അടക്കം ചെയ്യുന്നു) പ്രകാരം നിർദ്ദേശിക്കുന്നു. സഹകരണവകുപ്പിലെ ഓഫീസുകളിൽ ലഭിക്കുന്ന നിവേദനങ്ങൾ, പരാതികൾ, അപേക്ഷകൾ എന്നിവ കൈപ്പറ്റിയതിന് ഇതോടൊപ്പമുളള മാതൃകാ ഫാറത്തിൽ (അനുബന്ധം 1) രസീത് നൽകേണ്ടതും അത്തരം നിവേദനങ്ങളിൻമേൽ പരമാവധി ഒരു മാസത്തിനകം അന്വേഷണം നടത്തി നൽകേണ്ടതുമാണ്. സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്, ജോയിന്റ് രജിസ്ട്രാർ ഓഫീസുകൾ അസിസ്റ്റന്റ് രജാസ്ട്രാർ ഓഫീസുകൾ എന്നിവടങ്ങളിൽ ഇതോടൊപ്പമുളള മാതൃകയിൽ അനുബന്ധം 2 ഒരു രജിസ്റ്റർ സൂക്ഷിക്കേണ്ടതും പരാതികൾ ലഭിക്കുന്ന മുറയ്ക്ക് രജിസ്റ്റർ രേഖപ്പെടുത്തുകയും പരാതികാരന് രസീത് നൽകേണ്ടതുമാണ്. ജോയിന്റ് രജിസ്ട്രാർ ഓഫീസിലെ ഒരു സെക്ഷൻ കൈകാര്യം ചെയ്യുന്ന ഇൻസ്പെക്ടർ/ക്ലാർക്കിന് ഇതിന്റെ ചാർജ്ജ് കൊടുക്കുകയും ഡെപ്യൂട്ടി രജിസ്ട്രാർ (ഭരണം) ന് ഇതിന്റെ നിയന്ത്രണം ഉണ്ടായിരിക്കേണ്ടതുമാണ്. അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) ഓഫീസുകളിൽ ബന്ധപ്പെട്ട ഓഫീസ് ഇൻസ്പെക്ടർ രജിസ്റ്റർ സൂക്ഷിക്കുയും അസിസ്റ്റന്റ് രജിസ്ട്രാർ

ഇത് പരിശോധിക്കുകയും ചെയ്യേണ്ടതാണ്. അസിസ്റ്റന്റ് രജിസ്ട്രാർമാരുടേയും ഇൻസ്പെക്ടർമാരുടേയും യോഗത്തിൽ ഇക്കാര്യം ബന്ധപ്പെട്ടവർ വിലയിരുത്തേണ്ടതും നിർദ്ദേശം കർശനമായി പാലിക്കേണ്ടതുമാണ്. ഓരോ മാസവും തീർപ്പാക്കുന്ന പരാതികൾ ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർമാർ (ജനറൽ) ഇതോടൊപ്പം അനുബന്ധമായി ചേർത്തിട്ടുളള പുരോഗതി റിപ്പോർട്ടിൽ സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസിലെ ജോയിന്റ് രജിസ്ട്രാർ (എം.ആന്റ് പി)യ്ക്ക് നൽകുകയും ടിയാൻ അഡീഷണൽ രജിസ്ട്രാർ (ജനറൽ) മുഖാന്തിരം രജിസ്ട്രാർക്ക് റിപ്പോർട്ട് സമർപ്പിക്കുയും ചെയ്യേണ്ടതാണ്.

ജെ. രവിന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ

No.HV.(2) 31614/ 2002 Office of the Registrar of co-operative societies,
Thiruvananthapuram, Dated, 22.4.2003

CIRCULAR No. 23/2003

Sub **: Co-operative Department Kerala Women Co-operative Federation Limited No. - share - permission issued - Regarding**

Ref **: Resolution No. Board of Directors of the Kerala Women Co-operative Education Limited No. 4440 dated 5.4.2003**

The managing committee of the Kerala Women Co-operative Federation Limited No,4440 as per the resolution under reference Ist cited has requested to issue necessary permission to all co-operative societies under the administrative control of this Department in the State, to take share in the above society. As per clause 4(c) of the bye-laws of the said Federation permit the Federation to accept "C" class share from other co-operatives other than women cooperatives.

According to section 57(c) of the Kerala Co-operative Societies Act 1969, Co-operative Societies can invest in the shares or securities if any other society approved for the purpose, by the Registrar. The proposal was examined in detail with reference to the provision of the kerala co-operative Societies Act 1969.

In the circumstances stated above all the co-operative societies (except) those coming under the purview of Banking Regulation Act in the state coming under the administrative control of the Co-operative Department are permitted to take shares, in the Kerala Women Co-operative Federation Limited No.4440, Thiruvananthapuram subject to the bye-laws provisions and Board resolutions of the societies.

J. Raveendra Raju
Registrar of Co-operative Societies In Charge

No. HV (2) 31614/2002 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 3.06.2003

CIRCULAR No. 30/2003

Sub **: Co-operative Department Kerala Women Co-operative Federation Ltd. No.4440 permission to Co-operative for taking shares modified orders issued - regarding**

Ref **: 1) Resolution No.I dated 5.4.2003 of the Board of Directors of the Kerala Women Co-operative Federation Ltd. No. 4440**
2) Circular No. 23/03 dated 22.4.2003

In partial modification of circular No.23/03 dated 22.04.03, all the Co-operative Societies coming under the administrative control of the Co-operative Department are permitted to take shares, in the Kerala Women Co-operative Federation Ltd. No.4440, Thiruvananthapuram subject to the bye-laws, provisions and Board resolutions of the societies.

The Co-operative Societies coming under the purview of Banking Regulation Act are also permitted to invest in the shares of the Kerala Women Co-operative Federation Ltd., (Vanitha Fed) subject to guide lines and instructions of the Reserve Bank of India.

J. Raveendra Raju
Registrar of Co-operative Societies in Charge

നമ്പർ : എം.പി. (4) 40052/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്, തിരുവനന്തപുരം, തീയതി 20–02–2004

സർക്കുലർ നമ്പർ 06/2004

വിഷയം : **സഹകരണ വകുപ്പ് കേരളാ സ്റ്റേറ്റ് ഇന്റഗ്രേറ്റഡ് മാർക്കറ്റിങ് ആന്റ് പ്രോസസിംഗ് സഹകരണ സംഘം (കിംപ്കോ) ക്ലിപ്തം നമ്പർ 4445 മറ്റ് സഹകരണ സ്ഥാപനങ്ങൾക്ക് ഓഹരി എടുക്കുന്നതിന് അനുവാദം നൽകുന്നതു സംബന്ധിച്ച്**

സൂചന : **1. കിംപ്കോ ഭരണസമിതിയുടെ 22–12–2003ലെ 6–ാം നമ്പർ തീരുമാനം.**
2. കണ്ണൂർ ജില്ലാ ജനറൽ വിഭാഗം സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാറുടെ 04–02–2004 ലെ 27/04/എച്ച്.എം. നമ്പർ കത്ത്

കേരളാ സ്റ്റേറ്റ് ഇന്റർഗ്രേറ്റഡ് മാർക്കറ്റിങ് ആന്റ് പ്രോസസിങ് സഹകരണ സംഘം ക്ലിപ്തം നമ്പർ 4445 (കിംപ്കോ) സൂചന ഒന്നിലെ ഭരണസമിതി തീരുമാനപ്രകാരം സഹകരണ സംഘം രജിസ്ട്രാറുടെ ഭരണ നിയന്ത്രണത്തിലുള്ള എല്ലാ സഹകരണ സംഘങ്ങൾക്കും കിംപ്കോയുടെ ഓഹരി എടുക്കുന്നതിന് അനുവാദം നൽകുവാൻ അഭ്യർത്ഥിച്ച് നൽകിയ അപേക്ഷ കണ്ണൂർ ജില്ലാ ജനറൽ വിഭാഗം സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ സൂചന രണ്ടിലെ കത്ത് പ്രകാരം അയച്ചു തന്നിട്ടുണ്ട്.

കിംപ്കോയുടെ നിയമാവലി വകുപ്പ് ശ്ര (2) പ്രകാരം സംസ്ഥാന ജില്ലാ പ്രാഥമിക തല ത്തിലുള്ള മറ്റ് സഹകരണ സ്ഥാപനങ്ങൾക്ക് കിംപ്കോയുടെ ബി ക്ലാസ്സ് ഓഹരി എടു ക്കുന്നതിന് വ്യവസ്ഥ ചെയ്തിട്ടുണ്ട്.

ഈ സാഹചര്യത്തിൽ സംസ്ഥാന സഹകരണ സംഘം രജിസ്ട്രാറുടെ ഭരണ നിയന്ത്രണത്തിലുള്ള എല്ലാ സഹകരണ സ്ഥാപനങ്ങൾക്കും ആവശ്യമെങ്കിൽ, അതാത് സംഘങ്ങളുടെ നിയമാവലി, ഭരണസമിതി തീരുമാനം എന്നിവയ്ക്കു വിധേയമായി കേരളാ സ്റ്റേറ്റ് ഇന്റഗ്രേറ്റഡ് മാർക്കറ്റിംഗ് ആന്റ് പ്രോസസിങ് സഹകരണ സംഘം ക്ലിപ്തം നമ്പർ 4445 (കിംപ്കോ) ന്റെ ഓഹരി എടുക്കുന്നതിന് ഇതിനാൽ അനുവാദം നൽകുന്നു.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ . സി.ബി. (5) 21757/05

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 21–06–2005

സർക്കുലർ നമ്പർ 18/2005

വിഷയം : **സഹകരണ 'മിത്ര' അഗ്രികൾച്ചറൽ പ്രൊഡ്യൂസർ കമ്പനി ലിമിറ്റഡ് – എറണാകുളം ജില്ലയിലെ സഹകരണ സംഘങ്ങൾ ഓഹരിമൂലധനത്തിൽ പങ്കാളികളാകുന്നത് – അനുവാദം നൽകുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. മിത്ര അഗ്രികൾച്ചറൽ പ്രൊഡ്യൂസർ കമ്പനി ലിമിറ്റഡ് ചെയർമാന്റെ 19–05–2005, 10–06–2005 തീയതികളിലെ അപേക്ഷ**

2. എറണാകുളം ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാറുടെ 01–06–2005 ലെ സി. ആർ. ബി. 3343/05 നമ്പർ കത്ത്

3. എറണാകുളം ജില്ലാ സഹകരണ ബാങ്ക് ജനറൽ മാനേജരുടെ 16–06–2005 ലെ കത്ത്

എറണാകുളം ജില്ലിയിലെ കർഷകർ, പ്രാഥമിക സഹകരണ സംഘങ്ങൾ, മാർക്ക റ്റിങ് സഹകരണ സംഘങ്ങൾ, സ്വാശ്രയ സംഘങ്ങൾ, കുടുംബശ്രീകൾ, എന്നിവരുടെ പ്രവർത്തനങ്ങൾ സമന്വയിപ്പിച്ച് മിത്ര അഗ്രികൾച്ചറൽ പ്രൊഡ്യൂസർ കമ്പനി ലിമിറ്റിഡ് എന്ന പേരിൽ കമ്പനി രജിസ്റ്റർ ചെയ്ത് പ്രവർത്തനം ആരംഭിച്ചിട്ടുള്ളതാണ്. കർഷ കർക്ക് അവരുടെ ഉൽപ്പന്നങ്ങൾ മെച്ചപ്പെട്ട വിലക്ക് വിൽക്കാനും, ഉപഭോക്താക്കൾക്ക് ഗുണമേന്മയുള്ള സാധനങ്ങൾ വിതരണം ചെയ്യാനും, ധാരാളം തൊഴിലവസരങ്ങൾ സൃഷ്ടിക്കാനും കമ്പനിയുടെ പ്രവർത്തനം കൊണ്ട് സാധിക്കുന്നതാണെന്നും കാർഷിക വിഭവങ്ങൾ സംസ്കരിക്കുന്നതിനുള്ള പ്രൊസസിങ് യൂണിറ്റുകൾ തുടങ്ങാനും ജൈവ സാങ്കേതിക വിദ്യ ഉപയോഗപ്പെടുത്തിയിട്ടുള്ള കൃഷിരീതികൾ പ്രോത്സാഹിപ്പിക്കുന്ന തിനും അതോടൊപ്പം ഒരു സൂപ്പർമാർക്കറ്റ് സ്ഥാപിച്ച് ഉൽപ്പന്നങ്ങളുടെ വിപണനം ഏകോപിപ്പിക്കുന്നതിനും ഉദ്ദേശിക്കുന്നതായും സൂചന (1) പ്രകാരം കമ്പനി ചെയർമാൻ അറിയിച്ചിട്ടുണ്ട്. കമ്പനിയുടെ ആർട്ടിക്കിൾസ് ഓഫ് അസ്സോസിയേഷനിലെ വ്യവസ്ഥ പ്രകാരം കമ്പനിയുടെ ബോർഡിൽ സഹകരണ സ്ഥാപനങ്ങൾക്ക് കമ്പനിയിൽ പ്രത്യേക പ്രാതിനിധ്യം വ്യവസ്ഥ ചെയ്തിട്ടില്ല. കമ്പനിയുടെ പതിനഞ്ച് അംഗഭരണസമിതിയിൽ പരമാവധി പത്ത് പേർ സഹകരണ സംഘങ്ങളുടെ പ്രതിനിധികളായിരിക്കുമെന്ന് കമ്പനി

ഡയറക്ടർ ബോർഡിന്റെ 4–6–2005 ലെ 8–ാം നമ്പർ തീരുമാനപ്രകാരം ഏക കണ്ഠ്യേന തീരുമാനിക്കുകയും അടുത്ത് കൂട്ടുന്ന ആദ്യത്തെ പൊതുയോഗത്തിൽ വെച്ച് ഇതിലേക്കാവശ്യമായ ഭേദഗതി നിയമാവലിയിൽ വരുത്തുന്നതാണെന്നും കമ്പനി/ചെയർമാൻ ഉറപ്പു സംഘം രജിസ്ട്രാറുടെ ഭരണനിയന്ത്രണത്തിൽ എറണാകുളം ജില്ലയിൽ പ്രവർത്തിക്കുന്ന സഹകരണ സ്ഥാപനങ്ങൾക്ക് അനുവാദം നൽകണമെന്നും കമ്പനി ചെയർമാൻ സൂചന (1) പ്രകാരം അപേക്ഷിക്കുകയും സൂചന (2) പ്രകാരം ജോയിന്റ് രജിസ്ട്രാർ അപേക്ഷ രജിസ്ട്രാർക്ക് സമർപ്പിക്കുകയും ചെയ്തിട്ടുണ്ട്.

മിത്ര അഗ്രികൾച്ചറൽ പ്രൊഡ്യൂസർ കമ്പനിയുടെ ഉദ്ദേശലക്ഷ്യങ്ങൾ ജില്ലിയിലെ കർഷകർ, പ്രാഥമിക സഹകരണ സംഘങ്ങൾ, മാർക്കറ്റിങ് സംഘങ്ങൾ എന്നിവക്ക് പ്രയോജനകരമായിരിക്കുമെന്നതിന്റെ അടിസ്ഥാനത്തിൽ ചെയർമാന്റെ അപേക്ഷയും, ജോയിന്റ് രജിസ്ട്രാറുടെ കത്തും പരിഗണിച്ച് സഹകരണ സംഘം രജിസ്ട്രാറുടെ ഭരണനിയന്ത്രണത്തിൽ എറണാകുളം ജില്ലയിലെ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണസംഘങ്ങൾ/ബാങ്കുകൾ, മാർക്കറ്റിംഗ് സഹകരണ സംഘങ്ങൾ, മറ്റ് കാർഷിക സഹകരണ സംഘങ്ങൾ തുടങ്ങിയ സഹകരണ സ്ഥാപനങ്ങൾക്ക് അവയുടെ നിയമാവലിയിലെ വ്യവസ്ഥകൾക്കും, കേരള സഹകരണ നിയമം/ചട്ടം എന്നിവയ്ക്കും വിധേയമാണ്. മിത്ര അഗ്രികൾച്ചറൽ പ്രൊഡ്യൂസർ കമ്പനി ലിമിറ്റഡിന്റെ ഓഹരി എടുക്കാവുന്നതാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻ–ചാർജ്ജ

നമ്പർ : ജി (1) 46249/03

സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസ്
തിരുവനന്തപുരം, തീയതി

സർക്കുലർ നമ്പർ 4/2005

വിഷയം : **സഹകരണവകുപ്പ് – സംസ്ഥാനത്തെ സഹകരണ സ്ഥാപനങ്ങളിലെ പൊതു യോഗങ്ങളിൽ പങ്കെടുക്കുന്ന അംഗങ്ങൾക്കുള്ള ഭക്ഷണചെലവ് – നിർദ്ദേശം നൽകുന്നത് സംബന്ധിച്ച്**

സൂചന : **1). ഈ ആഫീസിലെ 20/8/1991 – ലെ 23/91 നമ്പർ സർക്കുലർ**
2). ഈ ആഫീസിലെ 29/5/1999 ലെ 22/99 നമ്പർ സർക്കുലർ

സൂചന (2) സർക്കുലർ പ്രകാരം ലാഭത്തിൽ പ്രവർത്തിക്കുന്ന സഹകരണസംഘങ്ങൾ അവയുടെ പൊതുയോഗത്തിൽ പങ്കെടുക്കുന്ന അംഗങ്ങൾക്ക് ഭക്ഷണം നൽകുന്നതിനായി ഒരംഗത്തിന് പരമാവധി 25 രൂപ എന്ന നിരക്കിലും നഷ്ടത്തിൽ പ്രവർത്തിക്കുന്ന സഹകരണ സംഘങ്ങൾ ഈ ഇനത്തിൽ ഒരംഗത്തിന് 8 രൂപയും ചെലവ് ചെയ്യുന്നതിന് അനുമതി നൽകിയിരുന്നു. ടി നിരക്കുകൾ വളരെ വളരെ അപര്യാപ്തമായതിനാൽ ഈ ഇനത്തിൽ ചെലവാക്കുന്ന തുകയുടെ നിരക്കുകൾ വർദ്ധിപ്പിക്കണമെന്ന സഹകരികളുടെ ആവശ്യം പരിഗണിച്ച് സംസ്ഥാനത്തെ സഹകരണ സംഘം രജിസ്ട്രാറുടെ ഭരണനിയന്ത്രണത്തിലുള്ള സഹകരണസംഘങ്ങളിലെ പൊതുയോഗങ്ങളിൽ പങ്കെടുക്കുന്ന അംഗങ്ങൾക്ക് ഭക്ഷണം നൽകുന്നതിനും മറ്റുമായി ചെലവഴി

ക്കാവുന്ന തുകയെ സംബന്ധിച്ച് സൂചന (2) സർക്കുലറിലെ നിർദ്ദേശം ചുവടെ ചേർത്തി രിക്കുന്ന പ്രകാരം പരിഷ്കരിക്കുന്നു.

ലാഭത്തിൽ പ്രവർത്തിക്കുന്ന സഹകരണസംഘങ്ങളിലെ പൊതുയോഗത്തിൽ പങ്കെടുക്കുന്ന അംഗങ്ങൾക്ക് ഭക്ഷണം നൽകുന്നതിനായി ഒരംഗത്തിന് പരമാവധി 30 (മുപ്പത്) രൂപ നിരക്കിലും ചെലവ് ചെയ്യുന്നതിന് അനുമതി നൽകുന്നു.

ബന്ധപ്പെട്ട വകുപ്പുദ്യോഗസ്ഥന്മാർ ടി നിർദ്ദേശം അവരുടെ നിയന്ത്രണത്തി ലുള്ള എല്ലാ സഹകരണ സ്ഥാപനങ്ങളുടെയും ശ്രദ്ധയിൽ കൊണ്ടു വരേണ്ടതാണ്.

കെ. കേശവൻ

സഹകരണ സംഘം രജിസ്ട്രാർ (ഇൻചാർജ്ജ്)

കേരള സർക്കാർ

ഉദ്യോഗസ്ഥ ഭരണ പരിഷ്കാര (എ ആർ 13) വകുപ്പ്

സർക്കുലർ

നമ്പർ : 19754/എആർ 13(2) /04/ഉ.ഭ. പ.ഭ.വ. തിരുവനന്തപുരം, 2005, ജനുവരി 1.

വിഷയം : **സർക്കാർ ഓഫീസുകളിൽ ലഭിക്കുന്ന അപേക്ഷകൾക്ക് കൈപറ്റ് രസീത് നൽകണമെന്നത് സംബന്ധിച്ച്.**

സൂചന : 1. 07–12–1995–ാം തീയതിയിലെ 21124/ഡി2/95/ഉ.ഭ. പ.വ. നമ്പരിലുള്ള സർക്കുലർ

2. 04–01–2001 ലെ ബഹു: ഹൈക്കോടതിയുടെ ഒ.പി. 25678/2000 ലെ വിധി ന്യായം.

3. 01–04–2002 –ാം തീയതിയിലെ 1730/ഡി2/02 ഉ.ഭ. പ.വ. നമ്പർ സർക്കുലർ.

പൊതുജനങ്ങളിൽ നിന്നും സർക്കാർ ഓഫീസുകളിൽ ലഭിക്കുന്ന പരാതി കൾ, നിവേദനങ്ങൾ, അപേക്ഷകൾ തുടങ്ങിയവയ്ക്ക് ആയത് കിട്ടിയാലുടൻ കൈപ്പറ്റ് രസീത് നൽകണമെന്ന് സൂചന ഒന്നിലെ സർക്കുലർ പ്രകാരം നിർദ്ദേശം നൽകിയിരു ന്നു. എന്നാൽ, പ്രസ്തുത നിർദ്ദേശം എല്ലാ വകുപ്പുകളും കൃത്യമായി പാലിക്കപ്പെടു ന്നില്ലാ യെന്ന് സർക്കാരിന്റെ ശ്രദ്ധയിൽപ്പെട്ടതിനാൽ സൂചന മൂന്നിലെ സർക്കുലർ പ്രകാരം ടി സർക്കാർ നിർദ്ദേശം കർശനമായി പാലിക്കണമെന്ന് വീണ്ടും നിഷ്കർഷി ച്ചിരുന്നു.

തുടർന്നും ഇതു സംബന്ധിച്ച് നിരവധി പരാതികൾ പൊതുജനങ്ങളിൽ നിന്നും ലഭിക്കുന്ന പശ്ചാത്തലത്തിൽ എല്ലാ എല്ലാ വകുപ്പുകളോടും പ്രതിപാദിച്ചിരിക്കുന്ന നിർദ്ദേശങ്ങൾ കർശനമായി പാലിക്കാൻ ഇതിനാൽ നിർദ്ദേശിച്ചുകൊള്ളുന്നു.

(1). സർക്കാർ ഓഫീസുകളിൽ (പോലീസ് സ്റ്റേഷനുകൾ ഉൾപ്പടെ) പൊതു ജനങ്ങൾ നേരിട്ട് നൽകുന്ന പരാതികൾ, നിവേദനങ്ങൾ, അപേക്ഷകൾ തുടങ്ങിയ വയ്ക്ക്ക ബന്ധപ്പെട്ട ഓഫീസുതന്നെ നിശ്ചിത മാതൃകയിൽ തയ്യാറാക്കിയ ഫോറ ത്തിൽ ഓഫീസ് സീലോടുകൂടി കൈപ്പറ്റ് രസീത് നൽകേണ്ടതാണ്.

(2). തപാലിൽ നൽകുന്ന അപേക്ഷകൾ, പരാതികൾ, നിവേദനങ്ങൾ മുതലാ യവയ്ക്ക് കൈപ്പറ്റ് രസീത് ആവശ്യമുണ്ടെങ്കിൽ പരാതിക്കാരൻ സ്വന്തം മേൽവി ലാസമെഴുതിയ പോസ്റ്റ് കവർ പരാതിയോടൊപ്പം ഉള്ളടക്കം ചെയ്തിരിക്കണം. അക്കാര്യം അപേക്ഷയിൽ രേഖപ്പെടുത്തേണ്ടതുമാണ്.

(3). മേൽ പ്രസ്താവിച്ച പ്രകാരം പൊതുജനങ്ങൾ മേരിട്ടോ തപാലിലോ നൽകുന്ന പരാതികൾ, അപേക്ഷകള്, നിവേദനങ്ങൾ തുടങ്ങിയവയ്ക്ക് കുറഞ്ഞത് മൂന്ന് ദിവസത്തിനകം കൈപ്പറ്റ് രസീത് നൽകിയിരിക്കണം. ഇക്കാര്യത്തിൽ വീഴ്ച വരുത്തിയാൽ ബന്ധപ്പെട്ട സെക്ഷൻ സൂപ്രണ്ടും പരാതി കൈകാര്യം ചെയ്യുന്ന ക്ലാർക്കും ഉത്തരവാദികളായിരിക്കുന്നതാണ്.

വകുപ്പ് അധ്യക്ഷന്മാർ ഇക്കാര്യത്തിൽ അവരവർ വകുപ്പിന്റെ കീഴിലുള്ള എല്ലാ ആഫീസർമാർക്കും പ്രത്യേകം നിർദ്ദേശം നൽകേണ്ടതും മേൽ നിർദ്ദേശങ്ങൾ നടപ്പിൽ വരുത്തിയെന്ന് ഉറപ്പു വരുത്തേണ്ടതുമാണ്.

മേൽ നിർദ്ദേശങ്ങളുടെ വെളിച്ചത്തിൽ പൊതുജനങ്ങൾക്ക് അവരുടെ പരാതികൾ, അപേക്ഷകൾ, നിവേദനങ്ങൾ തുടങ്ങിയവയുടെ കൈപ്പറ്റ് രസീത് ആവശ്യപ്പെടാവുന്നതാണ്.

ഡോ. കെ.എം. എബ്രഹാം
സെക്രട്ടറി (എ.ആർ).

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RULES
CHAPTER IV
MANAGEMENT OF SOCIETIES

R29. Accounts and other books to be maintained by Societies :- (1) Every society shall keep and maintain for such period and in such manner such accounts, books and registers in connection with the business of the society as the Registrar may from time to time direct, and shall make them available to officers authorised by the Registrar for the purpose of inspection, audit, etc.

(2) Without prejudice to the provisions of the foregoing sub-rule the societies shall, in general, keep and maintain the following accounts and books:-

(a) Minutes book for recording the proceedings [*of the sub committee, of the Committee] and of the general body of members;

(b) Share Application Register containing the name and address of the applicant, the date of receipt of application, the number of shares applied for and in case of refusal, the date of communication of the decision refusing the admission to the applicant;

(c) Admission Register showing [**the name, address and signature or thumb impression of each member] the date of admission, the shares taken by him and the amount paid by him towards such shares and the amount of share capital, if any, refunded to him together with the date of each such payment and refund;

(d) Nomination Register showing the name and address of the persons nominated by the members as per rule 23;

(e) Day Book (Cash Book) showing daily receipts and expenditure and the balance at the end of each day;

(f) Receipt Book containing forms in duplicate one of each set to be issued for money received by the society and the other to serve as counterfoil;

(g) Voucher file containing all vouchers for contingent expenditure incurred by the Society, numbered serially and filed chronologically;

(h) Ledgers of borrowing, showing deposits and other borrowing of all kinds in separate folios;

(i) General Ledger showing receipts and disbursements and outstanding under various heads from day to day;

(j) Register of monthly receipts and disbursements;

(k) Register of Dividend;

(l) Suspense Account Register;

(m) Rectification Register;

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* Substituted by SRO 510/69

** Substituted by SRO 1317/90

(n) In the case of Societies issuing loans;

(i) Loan application register;

(ii) Loan ledger showing the number and date of disbursement of each loan issued to members, the purpose for which it is granted and the date or dates if repayment distinguishing principal and interest;

(iii) Liability register showing the indebtedness of each member to the society, whether on account of loans taken directly by him or on account of loans for which he is surety;

(iv) Register of immovable property of defaulters brought in auction by the society;

(v) Register of closed loans;

(vi) Register showing progress of application for arbitration and execution

(vii) Register of declaration made under section 36;

(viii) Register of lands cultivated by members;

(ix) Credit limit statement;

(o) In the case of society with unlimited liability, property statement of members showing the assets and liabilities of each individual member on the date of his admission with full details of the property including the survey numbers of the lands, the statement being revised as often as may be necessary and in any case at least once a year and such statement being entered in a stitched volume;

(p) In the case of a society to which rule 63 applies, Register of fluid resources showing the immediate liabilities of the society and the extent of fluid resources available to meet them.

[*(q) Register of active members as per rule 28 (2) (a).]

R30. Power of Registrar to direct Accounts and other books to be written up :- The Registrar may by order in writing direct any society to get any or all the accounts and books required to be kept by it under rule 29 written up to such date, in such form and within such time as he may direct. In case of failure by any society to do so, the Registrar as the case may be, may depute an officer authorised in this behalf to writ up the accounts and books. In such cases, it shall be competent for the Registrar to determine with reference to the time involved in the work and the emoluments of the officer deputed to do it, the charge which the society concerned should pay to the Government or person authorised and to direct its recovery from the society.

R31. Period for which account books are to be maintained by the Societies:- The following records shall be retained till the completion of period indicated below, from the date of audit of accounts contained therein:-

* Inserted by SRO 380/2000

1. Original certificate of Registration together with the Registered Bye-laws	Permanent
2. Amendments to Bye-laws	Permanent
3. Admission register with the list of share holders	Permanent
4. Day Book	Permanent
5. Ledgers of deposits and other borrowings	Permanent
6. Reserve fund ledger	Permanent
7. Audit certificate	Permanent
8. Property statement of members	Permanent
9. Investment account in other institutions	Permanent
10. Act and Rules	Permanent
11. Minutes Books	Permanent
12. Share withdrawal Register	Permanent
13. Register of immovable property of defaulters brought in auction	Permanent
14. Register of fluid resources	Permanent
15. General ledger	Permanent
16. Investment register	Permanent
17. General information register	Permanent
18. Register of bonus on purchase	Permanent
19. Register of inspection of affiliated societies	Permanent
20. Register of loan applications from societies	Permanent
21. Register of delegates and delegation fees	Permanent
22. Register of assets and liabilities of affiliated societies	Permanent
23. Stock book of forms and furniture	Permanent
24. Acquittance Roll	10 years
25. Chitty ledger, chitty day book and chitty minutes book	12 years
26. Receipt book	10 years
27. Register of monthly receipts and disbursements	5years
28. Letter file	5years
29. Voucher file	5years
30. Price fixation register	5years
31. Loan ledger	[*Permanent]
32. Liability register	[*Permanent]
33. Register of closed loans	5years
34. Store keepers day book	5years
35. Purchase book	5years
36. Goods ledger	5years
37. Share application register	3 years
38. Loan application register	3 years

* Substituted by SRO 1317/90

39. Letter book register	3 years
40. Register of joint purchase	3 years
41. Register of joint sales	3 years
42. Register of application for arbitration and execution	3 years
43. Dividend register	7 years
44. General current register	3 years
45. Disposal register	3 years.
46. Despatch register	3 years.
47. Incidental charges register	3 years.
48. Register of issue to the salesman	7 years.
49. Register of establishment charges	3 years.
50. Suppliers' personal register	3 years.
51. Trade advance register	3 years.
52. Register of contingent charges	3 years.
53. Suspense account Register	5 years.
54. Sales chit	2 years.
55. Daily sales book	2 years.
56. Register of purchase made by members	3 years.
57. Register of condemned articles	1 years.
58. Deficits by drainage and wastage	3 years.
59. Bond register	10 years.
60. Nomination register	Permanent
61. Rectification Register	5 years.
62. Register of declaration made under Section 36	12 years.
63. Register of Lands cultivated by member	Permanent
64. Credit limit statement	3 years.

65. Any other records for such period as the Registrar may direct.

R32. Certifying copies of resolutions, entries in books etc. by societies:- (1) For the purpose specified in sub-section (1) and (2) of section 103 copies of the documents or entries shall be certified by the President or the Secretary of the Society and not less than two members of the committee.

Provided that-

(i) where an order has been passed under section 72 appointing liquidator of the society by the liquidator, and

(ii) when a committee or administrator/administrators have been appointed under section 32 or section 33 by any person of such committee or any one of the administrators duly authorised in this behalf by such committee or administrator may certify the copies.

2. Every certified copy shall bear the seal of the society.

3. The charges to be levied for the supply of such certified copies shall not exceed the amounts specified below:-

Details	Fees payable
(1) For every 175 words or fraction thereof written or typed matter	[*Rs.5]
(2) Where copies are supplied in printed forms	The cost of forms fixed by the Committee plus the fees calculated at the rate specified in item (1) in respect of the written or typed matter.

R33. Statement and returns to be furnished by society :- (1) Every co-operative society shall prepare for each co-operative year in such form as may be specified by the Registrar-

(a) a statement showing the receipts and disbursements for the year;

(b) a profit and loss account;

(c) a balance sheet;

(d) such other statements or returns as may be specified by the Registrar.

(2) Every society shall submit to the Registrar annually, within such time as he may direct, a copy of the statements specified in sub-rule (1) duly certified by the committee.

[*Provided that the Chief Executive of the society shall be responsible for submission of the above statements and, if it has not been submitted within three months on the closure of the year, he shall be liable for punishment under sub-section (4) of section 94 of the Act.]

(3) In case of failure by any society to submit any statement or return specified in the foregoing sub-rules, within the time directed by him, the Registrar may depute an officer or any person authorised in this behalf to prepare the necessary statements or returns. In such cases it shall be competent for the Registrar to determine, with reference, to the time involved in the work and the emoluments of the officer deputed to do it, the charges which society concerned should pay to the Government or to the person concerned and to direct its recovery from the society.,

(4) Every Co-operative Society shall prepare a list of its members as on the last day of each Co-operative year. The list shall be kept open at the office of the society during office hours for inspection by any member of the society free of cost.

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* Substituted by SRO 380/2000

ACT
CHAPTER IV
MANAGEMENT OF CO-OPERATIVE SOCIETIES

S27. Final authority in a Society :- (1) Subject to the provisions of this Act, the rules and the bye-laws, the final authority of a society shall vest in the general body of the members.

Provided that nothing contained in this sub-section shall affect the exercise by the committee or any officer of a society of any power conferred on such committee or such officer by this Act or the rules or the bye-laws.

(2) Notwithstanding anything contained in sub-section (1), where the area of operation of a society is not less than such area as may be prescribed, or where the society consists of not less than such number of members as may be prescribed, the society may provide by an amendment of its bye-laws for the constitution of a smaller body consisting of such number of the members of the society as may be prescribed, elected in accordance with the rules (hereinafter referred to as the representative general body) to exercise all or any of the powers of the general body as may be specified in the bye-laws except the power to conduct election of members of the committee, and any reference by whatever form of words, in this Act to the general body or a meeting thereof shall where a representative general body has been constituted under this sub-section, have effect in respect of the powers exercisable by the representative general body as if such reference were a reference to the representative general body or a meeting thereof, as the case may be;

Provided that the representative general body shall not alter any provision in the bye-laws relating to its constitution or powers.

(3) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be specified in the rules or the bye-laws.

RULES

R34. Representative General body and its Constitution :- (1) For the purpose of sub-section (2) of Section 27

(a) the area of operation of a society shall be the area comprised in one or more than one Taluk; or

(b) the number of members of a society is not less than 1000

(2) The representative general body shall consist of -

(a) The members of the committee of the society;

(b) representatives of members residing in such area or belonging to such class of members as may be specified in the bye-laws, such

representatives being elected at a special meeting of such members;

(3) Notwithstanding anything contained in sub-rule (1) or sub-rule (2),

[*(a) the area of class or members specified under clause (b) of sub-rule (2) shall be such that each area or division shall be uniform to ensure that the number of members which a delegate in the representative general body represent is more or less equal; provided that a delegate in the representative general body shall represent a minimum of 50 members;

(b) the total number of members of any representative general body shall not in any case exceed-

(i) 50 in case the total number of members of the society does not exceed 2500;

(ii) 200 in the case of total number of members is above 2500 but below 10,000; and

(iii) 500 in any other cases.

(4) The representative general body shall be constituted or reconstituted once in five years and their term shall be co-terminus with that of the elected general body.]

CASE LAWS

Power of Representive General Body Co–operative Societies Act, 1969 (Kerala) – Sections 27 and 28 – Whether the Representative General Body of a Cooperative society is competent to amend the bye laws of the cooperative society – Held, it is competent to amend the bye laws of the society except the bye laws relating to its own constitution or powers.

By the impugned amendments the term of office of the Committee was enhanced from 3 years to 5 years and the said enhancement was made applicable to the existing Committee which was elected on 28.11.1998 and which took charge on 5.12.1998. Hence we are of the view that there is no merit in the contention that the Representative General Body of the Bank had no power or competence to make the impugned amendments to the bye laws which were registered by the Joint Registrar of Cooperative Societies.

2004 (2) KLT 805 = 2004 (2) KLJ 69 = ILR 2004 (3) Ker 6 = AIR 2004 Ker 283 DB Anil Akkara v/s Registrar of Cooperative Societies

ACT

S29. Annual general body meeting :- (1) A general body meeting of a society shall be held once in a year for the purpose of:-

(a) approval of the budget with reference to the programme of the

* Substituted and inserted by SRO 380/2000

activities of the society prepared by the committee for the ensuing year;

(b) election, if any, in the prescribed manner of the members of the committee other than nominated members.

(c) consideration of the audit report and the annual report;

(d) disposal of the net profit; and

(e) consideration of any other matter which may be brought forward in accordance with the bye-laws.

(2) The Registrar or any other person deputed by him shall have the right to attend the committee or general body meeting of any society.

S30. Special general body meeting:- (1) The committee of a society may at any time, call a special general body meeting of the society and shall call such meeting within one month after receipt of a requisition in writing from the Registrar or from such number of members or a proportion of the total number of members, as may be prescribed

(2) If a special general body meeting of a society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorised by him in this behalf shall have power to call such meeting and that meeting shall be deemed to be a meeting called by the committee.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Registrar or any person authorised by him in this behalf may, at any time, call a special general body meeting of the society in such manner and at such time and place within the area of its operation as he may direct and such meeting shall be deemed to be a meeting called by the committee.

(4) Notwithstanding anything contained in the bye-laws of a society, the Registrar or any person authorised by him in this behalf may, at any time summon a meeting of the committee of the society and that meeting shall be deemed to be a meeting called in accordance with the bye-laws of the society and shall have power to transact all business which can be transacted at a meeting of the committee under the bye-laws of the society and such other business as is specially mentioned in the requisition made by the Registrar or the person authorised

(5) The Registrar or any other person deputed by him shall have the right to attend the committee or general body meeting of any society convened in accordance with the provisions of this section.

RULES

R36. Power to Call Special General Body meeting :- (1) The committee of a society shall call a [*special general body meeting] thereof under sub-section (1) of Section 30 -

* Substituted by SRO 1317/90

(a) within one month from the date of receipt of a requisition in writing from the Registrar; or

(b) within one month from the date of receipt of a requisition in writing from 1/5th of the total number of members.

(2) Notwithstanding anything contained in the bye-laws of a society as to the mode of summoning general meeting and the object, time and place of such meetings, the Registrar or any person authorised by him may at any time summon a special general body meeting of the society in such manner and at such time and place within the area of its operation as he may direct. He may also direct who should preside over such meetings and what matters shall be discussed by the meeting. Such meetings shall have all the powers of a meeting called according to the provisions of the bye-laws of the society notwithstanding that the meeting does not have the quorum fixed for a general body meeting under the bye-laws. Such meetings will not be invalid on the ground of any defect in the issue of notice, if the Registrar is of opinion that business transacted and the decision taken in the meeting were in the better interest of the society, and orders that the meeting and its deliberations were in order. The orders of the Registrar in the matter shall be final. The expenses for summoning such meetings shall be borne by the society.

(3) The procedure to be followed and the business to be transacted in a meeting of the committee summoned under sub-section (4) of Section 30 shall be as directed in the requisition made by the Registrar or the person authorised. No decision of the committee shall be invalid on the ground that there was no quorum as stipulated in the bye-laws or that there was some defect in the issue of notice to the members of the committee in that behalf.

CASE LAWS

Special General Body Co–operative Societies Act, 1969 (Kerala) – Section 30 – Convening of special general body meeting of Cooperative Societies – Provisions in the bye laws of a Society cannot be inconsistent with or contrary to the statutory provisions in the Act or the Rules relating to the convening of such meetings.

If the writ petitioner had any grievance that the Committee of the Society did not convene the special general body meeting on the basis of Ext. P3, it was open to him to approach the Registrar under sub-section (2) of Section 30 of the Act. If any such grievance was raised by the writ petitioner it was open to the Registrar to look into the grievance and to take appropriate action in accordance with law under sub-section (2) of Section 30.

2004(3) KLT SN 130 DB Kanjoor Ksheera Ulpadaka Co-operative Society v/s Pappachan

Questioning the validity of a resolution passed by General Body A member who was present at the general body meeting is not precluded from questioning the validity of a resolution passed in the meeting.

ILR 1965 (2) Ker 21 = 1965 KLT 740 DB Sankaranarayanan and others v/s Kunhikrishnan and others

Default in calling general body meeting Where the date for making up accounts has not been fixed, as required under the Section, the question of default in calling general meeting does not arise.

1962 (2) Mys LJ 437 Ramalingappa v/s S. Gurusiddappa

Notice of the meeting A meeting may be held with a minimum number of persons who would form the quorum, but the notice of the meeting and of agenda is essential to all the members.

1957 All LJ 56 Mukat Lal v/s Sahakari Samiti Ltd

ACT

S28. Appointment of committee :- (1) The general body of a society shall [*constitute a committee, for a period not exceeding [**five years], in accordance with the bye-laws and entrust the management of the affairs of the society to such committee.

Provided that in the case of society registered after the commencement of this Act, the persons who have signed the application to register the society may appoint a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider necessary; but the committee appointed under this proviso shall cease to function as soon as a committee has been constituted in accordance with the bye-laws:

[#Provided further that where the bye-laws so provide, the Government or the Registrar may nominate all or any of the members of the first committee, including the President or Chairman, for a period not exceeding [*twelve months]].

[**Provided also that a Committee constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, shall be eligible to continue for a period of five years.

Provided also that the above proviso is not applicable to a committee where the committee has passed a resolution before the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, for the conduct of election thereof.]

[**(1A) Notwithstanding anything contained in the bye-laws of a society, the maximum number of members of the committee shall not exceed fifteen, in the case of primary co-operative societies, and twenty-five in the case of all other types of co-operative societies.

(1B) Notwithstanding anything contained in the Bye-laws of any Federal Co-operative Society, the number of individuals in the society and the Committee thereof shall not exceed twenty five per cent of the total number of members in the society or in the Committee, as the case may be.]

(2) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for appointment as, or for being a member of a committee-

(a) if he is a member of the committee of another society of the same type; or

(b) if he is a member of the committees of two or more societies of a

* Substituted by Act 5 of 1992
** Substituted by Act 1 of 2000
Substituted by Act 19 of 1987

different type or different types;

Provided that nothing contained in this sub-section shall be deemed to disqualify a person for election as, or for being, a delegated of a society.

(3) Nothing contained in clause (a) of sub-section (2) shall be deemed to disqualify a member of the committee of a society for appointment as, or for being, a member of the committee of the apex or central society of the same type;

Provided that no member of a committee shall be the President or Chairman of more than one society of the same type.

(4) The members of a committee may be paid honorarium at such rates, as may be prescribed

[*(5) The quorum for a meeting of a committee shall be such number of members just above fifty per cent of the total number of that committee.]

CASE LAWS

The rulings under this head are classified and some of them are taken to other appropriate headings

ADMINISTRATOR UNDER SECTION 28

Term of administrator under S 28 cannot be extended vide S 33 Section 28 (1 A) and 33 - After the period of appointment of administrators appointed under Section 28 (1 A) is over, their period cannot be continued in exercise of power under Section 33(1) and Section 33 (1 A) It will be noticed that the power to appoint Administrator under Section 28 (1 A) is traceable to the Kerala Co-operative Societies (Amendment) Act, 1992 under which the term of the Societies was reduced from five years to three years. The said reduction in provision in Section 28 was followed by the provision in Section 28 (1 A) by which administrators could be appointed for the period before a new committee could be elected. In other words, the administrators under Section 28 (1 A) were a special category of administrators who come into being on reduction of the five year period to three year period as provided by the Kerala Co-operative Societies (Amendment) act, 1992, amending Section 28 of the Act. The administrators who belong to such a special category were entitled to continue only for a maximum period of one year initially and for a further period of three months as per Section 28 (1 AA) introduced by Ordinance 6 of 1993. It is not permissible to allow the said appointment of administrators under Section 28 (1 A) and Section 28 (1 AA) to continue to further periods in exercise of the powers under Section 33 (1) and section 33 (1 A) Section 33 is intended to cover different situations as stated in Section 33 (1).

1993 (2) KLT 433 = 1993 (2) KLJ 729 DB Joint Registrar of Co-operative Societies v/s C.K. Gopalan and others

* Inserted by Act 19 of 1987

If proper resolution for election is taken administrator under Section 28 shall not be resorted to Rule 35(1) - Clarification and reservation - If the existing society had passed a valid resolution before 60 days of the expiry of the term as contemplated by Rule 35 (1) and same was forwarded to the Registrar by registered post in a week, the power of appointment of three member committee or an administrator under Section 28 (1A) shall not be resorted to.
1992 (2) KLT 526 = 1992 (2) KLJ 551 = 1993 (2) ILR 773 DB Bappu Haji v/s Joint Registrar

Administrator has to comply with the time limits of election Section 28 (1 B) : Administrator being in the position of a committee, has to comply within the time limitations mentioned in Rule 35 and subject to that he has to exercise powers under Section 28 (1 B) Court in proceedings under Article 226 can only direct the administrator to exercise the power and cannot fix a date of for election. Cannot substitute its decision to that of the Authority.
1992 (2) KLT 220 = 1992 (2) KLJ 28 = 1992 (3) ILR 401 (DB) State of Kerala v/s Thilothaman

Powers of the administrator Section 28 (1 A) : The power conferred on the administrator is the power to manage the affairs of the society. The right to manage the affairs of the society is not the right merely to manage its day to day routine matters. The term 'manage' taken within its ambit everything that falls for decision in the interests of the society. What the administrator does when he assumes office is to displace the managing committee and get substituted in its place. He steps into the shoes of the committee. Nowhere in the Act or the Rules is it stated that the powers of the Administrator are less comprehensive than those of the managing committee. An Administrator is appointed to ensure continuity in the administration and not to create any hiatus or stagnation in its working. An Administrator appointed to manage the affairs of the society could exercise all those powers which the managing committee could itself have exercised if it were in office, which could be restricted by express provision in the order of appointment or in exercise of the powers of the Registrar by issuing directions under Section 66. But in the absence of any provision so limiting his powers, or directions, it has to be taken that his powers are plenary. Enrolment of members is one of the normal functions of management, within the purview of the powers of the managing committee, and therefore of the administrator.
1992 (1) KLT 669 = 1992 (1) KLJ 622 John v/s Joint Registrar

QUORUM

Quorum and Disciplinary proceedings Rule 198 - Quorum will have to be understood as against the number of the committee and not the number of the members available and permissible for considering a matter in appeal.

True the members of the disciplinary committee are not entitled to participate when an appeal is considered. But that does not mean that number of members of the committee is to be taken as the number as reduced by the number of the sub committee members. Number of the committee remains the same, namely in the instant case 9 and hence the quorum will have to be understood as against the number of the committee and not the number of the members available and permissible for considering a matter in appeal. The number of members is 9 and hence there must be at least 5. The statutory requirement of quorum is just above fifty percent of the total number of the committee. Hence the fifty percent should be taken as against the number of the committee and not against the number of members after excluding the sub committee members.

2002 (2) KLT 216 = 2002 (1) KLJ 635 Narayanan v/s Narikkuni Service Co-operative Bank

At the time of deciding each resolution, there should be quorum Co-operative Societies Act, 1969, (Kerala) - Section 28 (5) – At the time of deciding each resolution, there should be quorum for the meeting – It is not sufficient that the meeting started with quorum and thereafter that meeting can pass any resolution.

There is no doubt that at the time of deciding the matter there should be quorum. A different conclusion cannot be taken by interpretation of S.28(5) also. S.28(5) of the Act insists for a quorum in the meeting. It is not stated that quorum is enough at the time of beginning of the meeting. Considering the Parliamentary practice and discussion of various decisions quoted at the Bar that quorum is necessary at the time of division (voting) on the resolution. *In this judgment* **1954 (3) All ER 695 In Re Hartely Board Ltd Case** *and* **1969(2) All ER 744 (Chancery Division) Re London Flats Ltd** *are referred to.*

1999 (3) KLT 80 = 1999 (2) KLJ NOC 19 Sureshkumar and another v/s Joint Registrar of Co-operative Societies and others

More than one half of the sanctioned strength The interpretation that one half of the sanctioned strength in the facts of this case would be five and more than five would be six, will no doubt do violence to the legislative purpose. The interpretation of law should be in consonance with the content and spirit of the legislative purpose.

1996 (2) KLT 927 Joseph Thomas v/s State of Kerala

For 9 member committee quorum is 6 The no-confidemce motion is said to be carried if it has got the support of more than one half of the elected members. Thus in Panchayat having a strength of 9 elected members, one half of the elected members will be 5 More than one half will come to 6. Hence until the motion has the support of 6 members the motion cannot be said to be passed. It could not be presumed that the word more was used by the legislature without any

intention.

1996 (2) KLT 486 Ambili v/s Deputy Director

Until Registrar acts committee members can continue Rule 33 (1) - By resignation, the number of members getting reduced below the quorum - Unless and until the registrar acts in the manner provided in Section 33 the remaining members of the Committee do not cease to be members of that committee. *In this judgment* **1987 (2) KLT 420 Varma v/s Joint Registrar** *is distinguished.*

1994 (2) KLT 238 = 1994 (2) KLJ 230 Sadasivan v/s Joint Registrar

For 11 member committee quorum is 6 Section 28 (5) - The total number of members of the committee being eleven, the quorum required is fifty percent of the total number of members. Since fifty percent of eleven works out to 5.5, an integer above the said figure has to be fixed, which is six. If the quorum is six for a committee of eleven, it will be six for a committee of ten also. *In this case* **1990 (2) KLT 548 Subair Kunju v/s Trivandrum taluk M & P Co-operative Society** *is referred to.*

1994 (2) KLT 202 = 1994 (2) KLJ 345 Kurian v/s Registrar

Definition of quorum Section 28 (5) - Definition of quorum - Election to eleven seats notified but to one seat it was not held For arriving at the quorum, the number is not the actual present number of members but that number which the committee decides to be the strength of the committee. Section 28 (b) of the Act defines "bye-laws" to mean "the registered bye-laws of a Co-operative society". Section 7 of the Act provides for the registration of societies and their bye-laws. Section 7 (1) (d) enacts that the proposed bye-laws shall not be contrary to the Act or Rules. By this enactment, "quorum for a meeting of a committee" was defined to be "such number of members just above fifty percent of the total number of members of that committee". In order to deserve registration the bye-law shall not be contrary to any provision of the Act. To the extent to which it is inconsistent with the Act, the bye-law may become void. The bye-law in question being a subordinate piece of legislation, its continued existence in the original form would depend upon he amendment in the law whereunder such subordinate legislation is made. The bye-law depends for its validity on the enactment. The rule of construction in such cases is that the bye-law should be so read as to be consistent with the later enactment. Where an Act is amended, the bye-laws under the former Act or Section continue in force as amended by the later act.

1993 (2) KLJ 70 M. Jinadevan and others v/s State and Others

Resignation of some members does not reduce quorum Sections 28 (5) and 33 - Strength of the Board of Directors - Bye law provided the upper limit of Directors viz. 11. Fixation of upper limit does not mean that the strength of the committee should be that number. It can be any number below the upper limit also. Resignation of 3 members from the committee consisting of 7 members

does not reduce quorum.

1990 (2) KLT 548 = 1990 (2) KLJ 502 Subair Kunju v/s Trivandrum Taluk M & P Co-operative Society

Lack of quorum by resignation Bye-laws of the Society providing for right of co-option on members of Committee in case of vacancies. Quorum fixed is four for meeting. Out of 7 members four members resigned. The remaining members cannot form quorum. Without a quorum a meeting cannot be treated a valid meeting and co-option cannot be valid.

1987 (2) KLT 420 Varma v/s Joint Registrar

Quorum with reference to bye-laws ie. 7 out of 13 makes a quorum Section 33 : Bye-Law 38 (b) of the Society states that where more than one half of the members of the Managing Committee are present in a meeting of the committee, that meeting can take decision on any matter. Though the word 'quorum' is not used in the bye-law, it appears that the provision is prescription of quorum. The word 'quorum' denoted the number of members of any body of persons whose presence at a meeting is requisite in order that business may be validly transacted and that its acts may be legal. Bye-law 38 (b) in substance prescribes the number of members of the Managing Committee whose presence at a meeting is requisite in order that business may be validly transacted and so as to enable the meeting to take decision on any matter. Instead of indicating the exact number who should be present at a meeting, bye-law 38(b) states that more than one half of the number of members must be present. Since the committee consists of thirteen members, minimum number of members whose presence is necessary to constitute the quorum of the committee is seven. This is a sufficient quorum.

1987 (2) KLT 480 K.S. Xavier v/s Neeloor Service Co-operative Bank Ltd

ACT

[*S**28A. Reservation for women members and members belonging to Scheduled Castes or Scheduled Tribes in the Committee :-** [**(1) Notwithstanding anything contained in this Act, the rules or the bye-laws, there shall be reserved in the committee of every society, one seat for a woman member and one seat for a member belonging to the Scheduled Castes or the Scheduled Tribes.]

(2) Nothing contained in sub-section (1) shall prevent the women members and members belonging to the Scheduled Castes or Scheduled Tribes from being elected to the non-reserved seats in the committee

[**(3) Where there is no representation of woman or of a member belonging to the Scheduled Castes or Scheduled Tribes in the committee of any apex or central society at the commencement of the Kerala Co-operative

* Inserted by Act 29 of 1986

** Substituted by Act 1 of 2000

Societies (Amendment) Act, 1999, the Government or the Registrar, respectively, may nominate a woman member or a member belonging to the Scheduled Castes or Scheduled Tribes to the Committee.]

(4) A person nominated to the committee of a society or Bank shall have all the powers of a member elected to such committee and shall hold office during the pleasure of the Government or the Registrar, as the case may be.]

RULES

R35. Procedure regarding conduct of Election to the Committee of Societies :- The election of the members of the committee of a Society [*which does not come under sub-section (1) of Section 28B of the Act] shall be conducted in the following manner.

[**(1) The Committee shall meet at least 60 days in advance of the date of expiration of its term and pass a resolution fixing the date, time and place for the conduct of the election of the new committee. A copy of the resolution shall be sent to the Registrar by registered post within a week.

(2) The Registrar may on receipt of such resolution appoint a Returning Officer for the conduct of election. The Returning Officer so appointed may be given such remuneration as may be fixed by the Registrar. The Returning Officer shall take necessary steps for the conduct of election and the committee shall render all necessary help to the Returning Officer for the constitution of the Committee.]

[#**Explanation :-** For the purpose of sub-rules (1) and (2) the expression 'Registrar' means, (a) in the case of Societies having State-wide jurisdiction, the Registrar of Co-operative Societies; (b) in the case of Societies the jurisdiction of which is confined to one district and in the case of Primary Societies, the jurisdiction of which exceeds one circle, the Joint Registrar of the District concerned; and (c) in the case of Primary Societies the jurisdiction of which does not exceed one circle the Assistant Registrar of the Circle concerned.]

(3)[**(a) [##The Returning Officer shall give intimation regarding the details of election of the members of the Committee to all members included in the final list of the voters, to vote at the election of the committee, either in person and obtain their full signature in token of having received the same, or by post under certificate of posting or by publishing such details in two vernacular dailies having wide circulation in the area.] A copy of the intimation shall also be affixed on the notice board of the Head Office and the branches, if any, of the

* Substituted by SRO 125/2001
** Substituted by SRO 510/69
Inserted by SRO 6/85
Substituted by SRO 1736/85

society. The intimation shall contain the following particulars:-

(i) The number of vacancies to be filled up by election;

(ii) Any area or constituency that is specified in the bye-laws from which members are to be elected;

(iii) The date on which, the place at which and the hours between which nomination paper shall be filled by the contesting candidate or by his proposer or seconder such dates not being less than seven clear days before the dates fixed for the election;

(iv) the date and hour when the nomination paper will be scrutinised;

(v) the date on which, the place at which and the hours between which, polling will take place.]

(b) The committee in office shall prepare a list of members qualified to vote at the election in accordance with the provisions of the Act, these Rules and Bye-laws as stood on a date 30 days prior to the date fixed for the poll and supply the same, to the Returning Officer. The Returning Officer shall publish copies of the list by affixing them to the notice Board at the Head Office of the society and its branches, if any, not less than fifteen days prior to the date fixed for election inviting objections, if any, in the matter, within three days of publication. The list shall specify the admission number, name of the member, name of the Father or Husband and the address of such member. After considering the objections, if any, the Returning Officer shall publish a final list of eligible voters on the Notice Board of the society and in its branches, if any, not less than ten days prior to the date fixed for the poll. A copy of such list shall be supplied by the society to any member on payment of such fees as may be prescribed by the committee. [*xxx]

(c) (i) The nomination of the candidates for election shall be made in the form prescribed by the society which on application shall be supplied by the committee to any member, free of cost.

(ii) Every nomination paper shall be signed by two members whose names are included in the list of members. One of the members shall sign the Form as proposer and the other as seconder for the nomination. The nomination paper shall also contain a declaration signed by the candidate proposed for election to the effect that he is willing to stand for election.

(iii) Every nomination paper shall be presented in person or sent by registered post acknowledgment due, by the candidate himself or by his proposer or seconder to the Returning Officer, so as to reach him before the date and hour specified in item **(iv) of the notice referred to in clause (a). The Returning Officer shall enter on the nomination paper

* Omitted by SRO 225/75

** To be amended as (iii) for proper understanding.

its serial number and certify the date and hour at which the nomination paper is received by him and shall immediately give a written acknowledgment for the receipt of the nomination paper. Any nomination paper which is not delivered or received on or before the date and time fixed for its receipt shall be rejected.

(d) No member shall be nominated as a candidate for election to fill a seat on the committee if he

(i) is ineligible to vote;

(ii) does not possess the necessary qualifications, if any, specified in the bye-laws of the society for election as a member of the committee or;

(iii) is disqualified to be a member under the provisions of the Act and Rules or a member of the committee under these Rules.

(e) (i) On the day following the date fixed for the receipt of nomination papers, the Returning Officer shall take up the scrutiny of the nomination papers. The candidate or his proposer or his seconder may be present at the time of scrutiny of nomination papers;

(ii) The Returning Officer shall examine the nomination papers and shall decided objection which may be made by any person in respect of any nomination and may, either on such objection or on his own motion and after such summary inquiry, if any, as he thinks necessary, reject any nomination.

Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of the name of his proposer or seconder or of any other particulars relating to the candidate or his proposer or seconder as entered in the list of members referred to in clause (b) if the identity of the candidate or proposer or seconder as the case may be is established beyond reasonable doubt;

(iii) The Returning Officer shall give all reasonable facilities to the contesting candidates or their proposers, or seconders, as the case may be, to examine all the nomination papers and satisfy themselves that the inclusion of the name of the contesting candidate is valid;

(iv) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same, as the case may be, and if the nomination paper is rejected, he shall record in writing a brief statement of his reasons for such rejection;

(v) The Returning Officer shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or affray or by causes beyond his control.

(f) The list of valid nomination as decided by the Returning Officer shall be published on the notice board of the society containing the names in

alphabetical order and address of the candidates as given in the nomination papers, on the same day on which the scrutiny of the nomination papers is completed.

(g) Any candidate may withdraw his candidature by notice in writing signed by him and delivered in person or through the proposer or seconder at any time after the presentation of his nomination paper but before 5 p.m. on the day following the days on which the valid nominations are published under clause (f) to the Returning Officer. A notice of withdrawal of candidature once given shall be irrevocable.

[*(gg) Soon after the expiry of the time fixed for the withdrawal of candidature, the Returning Officer shall published the final list of contesting candidates in the Notice Board of the Society.]

(h) If for any area or constituency for which election is to be held, the number of candidates whose nomination papers have been declared valid does not exceed the number of candidates to be elected for that area or constituency, the Returning Officer shall on the day fixed for the election, announce the names of all such candidates whose nominations are valid and declare them to have been duly elected to the committee. [*If the number of candidates whose nominations are valid exceeds the number to be elected for any area or constituency, the Returning Officer shall arrange for conducting a poll on the date fixed for the purpose. If the number of valid nominations received by the Returning Officer is less than the number of candidates to be elected but it constitutes quorum for a meeting of the committee as provided for in sub-section (5) of section 28 of the Act and bye-laws of the society, he shall declare such of the candidates whose nominations have been found to be valid, as duly elected; the persons who are so declared to have been duly elected shall form the committee. The committee so constituted shall also arrange to conduct the electoral process once again to fill up the remaining vacancies in accordance with the procedure laid down in the Rules.] [**For the efficient conduct of the election the Returning Officer may arrange one polling booth for every 1200 voters or part thereof in a society and for every 1200 voters or part thereof appoint polling and counting officers as follows

Polling Personnel

Presiding Officer	1
Polling Officers	2
Polling Assistant	1

Counting Personnel

Counting Supervisor	1
Counting Officers	2
Counting Assistant	1

* Inserted by SRO 1317/90

** Substituted by SRO 1440/88

Provided that where there is only one polling booth the Returning Officer himself act as the Presiding Officer and no separate Polling Officer as provided above need be appointed:

Provided further that if the counting of votes commences immediately after the completion of polling, the officers appointed for the conduct of the polling may be appointed as Counting Officers;]

[*(hh). The Polling and Counting Officers may be appointed only from among employees of the Government Department in which the administrative control of the society is vested]

(i) The committee shall provide the Returning Officer with ballot boxes, ballot papers, copy of the list of members referred to in clause (b) and such other articles as may be necessary for the conduct of election. The ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be taken out therefrom without the box being unlocked.

(j) A candidate contesting the election may, by a letter to the Returning Officer appoint an agent to represent him at every booth where polling is held to identify the voters and to watch the recording of votes. Such letter shall contain the consent in writing of the agent concerned.

(k) Canvassing of votes by any person at the place where election are to be conducted shall be prohibited.

(l) Immediately before the commencement of the poll, the Polling Officer shall show the empty ballot box to such persons as may be present at the time and shall then lock it up and affix his seal in such manner as to prevent its being opened without breaking the seal. The candidate or his agent may also affix his own seal, if he so desires.

(m) Every member who desires to exercise his right of vote [**shall, subject to the provisions of clause (o), be supplied with a ballot paper] containing the names of contesting candidates, arranged in the alphabetical order, either printed, typewritten or cyclostyled according to convenience, on the ballot paper. The ballot paper shall be serially numbered and shall also bear the seal of the society and also the initials of the Returning Officer and further contain a column for the voter to inscribe a mark (x) against the names of persons to whom he wants to vote.

(n) Each polling station and where there is more than one polling booth at a station, each such booth shall contain a separate compartment in which the members can record their votes in secrecy.

(o) No ballot paper shall be issued to a member [**unless he produces his identity card and the polling officer is satisfied] that the member concerned is the same person as noted in the list furnished to him. When a ballot paper is

*Substituted by SRO 1440/88

** Substituted by SRO 845/92

issued, the serial number of the ballot paper issued will be noted against the name of the member in the voters list. On receipt of such ballot paper, the member shall proceed to the polling compartment set apart for the purpose and indicate the person or persons in whose favour he exercise his vote by inscribing a mark (x) against the name of the candidate or candidates, as the case may be, put the ballot paper in the ballot box kept for the purpose with utmost secrecy. If owing to blindness or other physical infirmity, or illiteracy, a member is unable to inscribe the mark on the ballot paper, the polling officer or the Returning Officers shall ascertain from him the candidate or candidates in whose favour he desires to vote, inscribe the mark (X) on his behalf and put the ballot paper in the ballot box.

(p) If at any stage of the polling the proceedings are interrupted or obstructed by any riot or affray or if at such election it is not possible to take the poll for any sufficient cause, the Returning Officer shall have power to stop the polling, recording his reasons for such an action in the minute book of the society.

[*Provided that where the Returning Officer is not able to record the reasons in the minutes book, he shall report the fact together with reasons thereto to the Registrar under intimation to the Secretary of the Society.]

(q) No voter shall be admitted after the hours fixed for the poll. But a voter who enters the premises where ballot papers are being issued before the close of the polling hour shall be issued the ballot paper and allowed to vote.

(r) The counting of votes shall take place immediately after the close of the poll, if possible. If this is not possible, the ballot box shall be sealed with the seal of the Returning Officer; and the contesting candidates or their agents if they so desire, and be kept by Returning Officer under his safe custody. The Returning Officer shall then announce and also intimate in writing to the candidates or their agents the time and place at which the counting shall commence.Votes shall be counted by or under the supervision of the Returning Officer. Each candidate and his authorised agent shall have a right to be present at the time of counting. But the absence of any candidate or his agent at the time of counting, shall not vitiate counting or announcement of results by the Returning Officer. The number of votes secured by each candidate and the result of the elections shall be announced by the Returning Officer as soon as the counting is over. [**In the case of equal division of votes, the results shall be decided by lots to be drawn by the Returning Officer.]

(s) The result of the elections shall also be recorded in the minutes book of the society and attested by the Returning Officer and shall also be notified immediately on the notice board of the society. The members so elected shall be deemed to have been elected by the general body of the society for the purposes of clause (b) of Section 29

*Inserted by SRO 1317/90

** Added by SRO 510/69

(t) A ballot paper shall be rejected by the Returning Officer, if

(i) it bears any mark by which member who voted can be identified; or

(ii) it does not bear the seal of the society and the initials of the Returning Officer; or

(iii) the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been cast; or

(iv) if it bears mark for [*xxx] more than the number of candidates to be elected.

[**(4) after the announcement of the results of the election, the Returning Officer shall keep the ballot papers used and unused in a sealed cover and hand them over to the secretary of the society for safe custody. The Secretary shall preserve them for three months from the date of announcement of the results of the election. They shall not be destroyed after the period to above if any dispute relating to or in connection with the election is pending.]

[#**R35A. Procedure regarding conduct of election to the committee of Societies by the State Co-operative Election Commission :-** The election of the members to the committee of Societies by the State Co-operative Election Commission shall be conducted in the following manner

(1) The committee shall meet at least 60 days prior to the date of expiration of its term and pass a resolution fixing the date, time and place for the conduct of the election to the new committee. A copy of such resolution shall be sent to the State Co-operative Election Commission by registered post within a week [## through the Registrar as specified in the explanation to Sub-rule (2) of Rule 35.]

(2) The Co-operative Election Commission may on receipt of such a resolution appoint Returning Officer from among the officers of the concerned Administrative Department for the conduct of election. The Returning Officer so appointed may be given such remuneration as may be fixed by Government from time to time. The Returning Officer shall take necessary steps for the conduct of election and the Committee shall render all necessary assistance to the Returning officer for the conduct of election to the committee.

(3) The State Election Commission shall notify the details of election to the committee of the society, in two vernacular dailies having wide circulation in the area. A copy of the information shall also be affixed on the Notice Board of the head office and the branches, if any, of the Society. The notification shall contain the following particulars:-

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*Omitted by SRO 510/69

** Inserted by SRO 790/76

Inserted by SRO 125/2001

Inserted by SRO 326/2003

(i) The number of vacancies to be filled up by election;
(ii) Any area or constituency that is specified in the bye-laws from which members are to be elected;
[*(iii) The date on which and the place at which the preliminary notification of the list of members qualified to vote as the voter shall be published;
(iv) The dates between which objections shall be filed and the date on which, the hours between which, and the place at which the objections, if any, shall be scrutinized;
(v) The date on which, and the place at which the final voters' list shall be published.]
(vi) The date on which, the place at which, and hours between which nomination paper shall be filed by the contesting candidate or by his proposer or seconder;
(vii) The date and hour when the nomination paper will be scrutinised;
(viii) The date on which, the place at which and the hours between which, polling if necessary will take place.

(4) The State Co-operative Election Commission shall appoint an Electoral Officer from among the officers of the concerned Administrative Department who shall be responsible for the publication of the list of members qualified to vote at the election in accordance with the provisions of the Act, rules and bye-laws as stood on a date 60 days prior to the date fixed for the poll. The list shall contain the admission number, name of the member, name of father or husband and the address of such member. Only the **active members shall be included in the voters list. Such list shall also contain the name and other particulars of the delegate in cases where the member is a society or corporation or a statutory or non-statutory Board, Committee or other body of persons which is a member of another society or Government. It shall be the duty of the Chief-executive of the concerned society to prepare, up date the list as per the Rules and submit voters list duly approved by the Committee, to the Electoral Officer and render all assistance required by the Electoral Officer. It is the duty of the Electoral Officer to publish the preliminary voters list in Form No. 34 in the Notice Board of the Head Office and branches if any, of the society and call for objections if any, on the voters list within 3 days of publication and publish final voters list in Form No. 35 within 15 days prior to the date fixed for the poll. The final voters list so prepared should be published in the head Office and branches of the concerned society. A copy of such list shall be supplied by the society to any member on payment of such fees as may be prescribed by the committee of the society.

(5) The persons included in the voters list should be supplied with the identification cards (in Form No. 6A) on request of the member who will bring

*Inserted by SRO 326/2003
** Declared Ultra Vires

2 passport size photographs, recently taken. The issue of identification cards shall be stopped before 2 days prior to the date of poll. The Chief Executive of the society is responsible for the issue of identification cards to the members. Any complaint in this regard will be entertained by the Chief Electoral Officer who shall take a decision on the complaint before two days prior to the date of poll.

(6) (a) The nomination of the candidates for election shall be made in Form No. 36 which shall be supplied by the Returning Officer to any member free of cost on application;

(b) Every nomination paper shall be signed by two members whose names are included in the voters list. One of the members shall sign the form as proposer and the other as seconder for the nomination. The nomination paper shall also contain a declaration signed by the candidate proposed for election to the effect that he is willing to stand for election. Along with the nomination paper he shall deposit Rs.100 (Rupees hundred only) in the Society, which shall be refunded to him only if he gets more than 10% of the total votes polled during the election:

Provided that the signature of the proposer or seconder or both shall not be insisted in cases where there are no sufficient members to make such proposal or seconding.

(c) Every nomination paper shall be presented in person sent by registered post with acknowledgment due by the candidate himself, or by his proposer or seconder to the Returning Officer, so as to reach him before the date and hour specified in item *(iii) of the notice referred to in clause (3). The Returning Officer shall enter on the nomination paper its serial number and certify the date and hour at which the nomination paper is received by him and shall immediately give a written acknowledgment for the receipt of the nomination paper in Form No. 37. Any nomination paper not delivered or received on or before the date and time fixed for its receipt, shall be rejected.

(d) No member shall be nominated as a candidate for election to fill a seat in the committee, if he

(i) is ineligible to vote in the election;

(ii) does not possess the necessary qualifications, if any, specified in the bye-laws of the Society for election and as a member of the committee, or

(iii) is disqualified to be a member under the provisions of the Act and rules.

(e) (i) On the day following the date fixed for the receipt of nomination papers, the Returning Officer shall take up the scrutiny of the nomination papers. The candidate or his proposer or his seconder may be present at the time of scrutiny of nomination papers.

(ii) The Returning Officer shall examine the nomination papers and shall

* This clause needs be amended as "item (vi)"

consider objection which may be made by any person in respect of any nomination and may, either on such objection or on his own motion and after such summary enquiry, if any, as he thinks necessary, reject any nomination:

Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or, of the name of his proposer or seconder or of any other particulars relating to the candidate or his proposer or seconder as entered in the list of members referred to in clause (b) if the identity of the candidate or proposer or seconder, as the case may be, is established beyond reasonable doubt.

(iii) The Returning Officer shall give all reasonable facilities to the contesting candidates or their proposers or seconders, as the case may be, to examine all the nomination papers and satisfy themselves that the inclusion of the name of the contesting candidate is valid.

(iv) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same, as the case may be, and if the nomination paper is rejected, he shall record in writing a brief statement of his reasons for such rejection.

(v) The Returning Officer shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or affray or by causes beyond his control. If any adjournment of the proceedings have been done due to the reasons mentioned above, the fact should be reported by the Returning Officer to the State Co-operative Election Commission forthwith.

(vi) No member of the Society shall be eligible for being elected or appointed as a member of the committee under section 28 of the Act if he is disqualified under Rule 44 and as per the bye-law of the society.

(f) The list of valid nomination as decided by the Returning Officer shall be published on the notice board of the Society containing the names in alphabetical order and address of the candidates as given in the nomination papers, on the same day on which the scrutiny of the nomination papers are completed.

(g) Any candidate may withdraw his candidature by notice in writing signed by him and delivered in person or through the proposer, or seconder at any time after the presentation of his nomination paper but before 5 p.m. on the date following the day on which the valid nominations are published under clause (f), to the Returning Officer. A notice of withdrawal of candidature once given shall be irrevocable. Soon after the expiry of the time fixed for the withdrawal of candidature, the Returning Officer shall published the final list of contesting candidates in the notice board of the Society.

(h) If, for any area or constituency for which election is to be held, the number of candidates whose nomination paper have been declared valid does not exceed the number of candidates to be elected for that area or constituency,

the Returning Officer shall on the day fixed for the election, announce the names of all such candidates whose nominations are valid and declare them to have been duly elected to the committee. If the number of the candidates whose nominations are valid exceeds the number to be elected for any area or constituency, the returning officer shall arrange for conducting a poll on the date fixed for the purpose.

(i) If the number of valid nominations received by the Returning Officer is less than the number of candidates to be elected but it constitutes quorum for a meeting as provided for in sub-section (5) of section 28 of the Act and bye-laws of the Society, he shall declare such of the candidates whose nominations have been found to be valid, as duly elected. The persons who are so declared to have been duly elected shall form the committee. The committee so constituted shall also arrange to conduct the electoral processes once again, to fill up the remaining vacancies, in accordance with the procedure laid down in these rules.

(j) The Returning Officer will hand over the list of candidates to the Electoral Officer on the next day of the publication of the final list of candidates. The Electoral Officer shall make necessary arrangements for the printing of ballot papers for election. Sufficient number of ballot papers shall be supplied to the Returning Officer on the previous day fixed for election. The Returning Officer shall take charge of the ballot papers and keep the ballot papers under his safe custody.

(k) For the efficient conduct of the election, the Returning Officer may arrange one Polling booth for every 1200 voters or part thereof in a society and for every such booth, appoint polling and counting officers as follows:-

Polling personnel

Presiding Officer	1
Polling Officer	2
Polling Assistant	1

Counting personnel

Counting Supervisor	1
Counting Officers	2
Counting Assistant	1

Provided that where there is only one polling booth, the Returning Officer himself may act as the Presiding Officer and no separate Polling Officer as provided above need be appointed:

Provided further that if the counting of votes commences immediately after the completion of polling, the officers appointed for the conduct of the polling may be appointed as Counting Officers as well.

(l) The polling and counting officers may be appointed only from among

the officers of the concerned Administrative Department and they may be paid remuneration or other allowances as fixed by Government from time to time

m) The Electoral Officer shall provide the Returning Officer with ballot boxes, ballot papers, copy of list of voters and such other articles that may be necessary for the conduct of election. The ballot box shall be so constructed that the ballot papers can be inserted therein but cannot be taken out there from without the box being unlocked.

(n) Arrangements in Polling Station:

(i) The details of voters to exercise their votes in the polling booth shall be displayed in front of the polling booth.

(ii) The list of contesting candidates in the ballot paper will be affixed in front of the polling station.

(iii) Two or more voting compartment to the voters for marking the ballot paper may be arranged in each in each polling booth.

(iv) Seal for marking the ballot paper may be provided in the polling booth.

(v) A candidate contesting the election may, by a letter to the Returning Officer appoint an agent to represent him at every booth where polling is held, to identify the voters and to watch the recording of votes. Such letter shall contain the consent in writing of the agent concerned.

(vi) Canvassing of votes by any person at the place where election are to be conducted shall be prohibited.

(vii) Immediately before the commencement of the poll, the polling officers shall show the empty ballot box to the candidates or his agent as may be present at the time and shall then lock it up and affix his seal in such manner so as to prevent it being opened without breaking the seal. The candidate or his agent may also affix own seal if he desires.

(viii) Every member who desires to exercise his right of vote, shall subject to the provisions of clause (ix), be supplied with a ballot paper containing the names of contesting candidates arranged in the alphabetical order, either printed, type written or cyclostyled according to convenience, on the ballot paper. The ballot paper shall be serially numbered and shall also bear the seal of the society and also the signature of the Returning Officer and further contain a column for the voter to inscribe a mark (**x**) against the names of persons to whom he wants to vote.

(ix) No ballot paper shall be issued a member unless he produces his identity card and the polling officer is satisfied that the member concerned is the same person, as noted in the voters list, furnished to him. When a ballot paper is issued the serial number of the ballot paper will be noted against the name of the member in the voters list. On

receipt of such ballot paper the members shall proceed to the polling compartment set apart for the purpose and indicate the person or persons in whose favour he exercise his vote by inscribing a mark (x) against the name of the candidate or candidates, as the case may be, put the ballot paper in the ballot box, kept for the purpose with utmost secrecy. If owing to blindness or other physical infirmity or illiteracy, a member is unable to inscribe the mark on the ballot paper, the polling officer or the Returning Officer shall allow the companion of the voter to exercise his vote as instructed by the voter. Before allowing the companion to vote on behalf of the voter the presiding officer should get a declaration from the companion in Form No. 38 (Appendix II).

(x) If at any stage of the polling, the proceedings are interrupted or obstructed by any riot or affray, or if at such election, it is not possible to take the poll for any sufficient cause, the Returning Officer shall have power to stop the polling, recording his reasons for such an action in the minutes book of the society and the fact may be reported to the Electoral Officer:

Provided that where the Returning Officer is not able to record the reasons in the minutes book, he shall report the fact together with reasons thereto, to the Electoral Officer concerned and Co-operative Election Commission forthwith.

(xi) No voter shall be admitted after the hours fixed for poll. But a voter who enters the premises where ballot papers are being issued before the close of the polling hour shall be issued the ballot paper and allowed to vote.

(o) The counting of votes shall take place immediately after the close of the poll, if possible. If this is not possible, the ballot box shall be sealed with the seal of the Returning Officer and the contesting candidates or their agents if they so desire, and be kept by Returning Officer under his safe custody, under intimation to the Electoral Officer. The Returning Officer shall then announce and also intimate in writing to the candidates or their agents the time and place at which the counting shall commence. Votes shall be counted by or under the supervision of the Returning Officer. Each candidate and his authorised agent shall have a right to be present at the time of counting. But the absence of any candidate or his agent at the time of counting shall not vitiate counting or announcement of results by the Returning Officer. The number of votes secured by each candidates and the result of the elections shall be announced by the Returning Officer as soon as the counting is over. In the case of equal division of votes, the result shall be decided by lots to be draw by the Returning Officer.

(p) The result of the election shall be recorded in the minutes book of the society and attested by the Returning Officer and shall also be notified

immediately on the notice board of the society. The members so elected shall be deemed to have been elected by the general body of the society for the purpose of clause (b) of section 29.

(q) A ballot paper shall be rejected by the returning Officer, if

(i) it bears any mark by which the member who voted can be identified; or

(ii) it does not bear the seal of the society and the initials of the Returning Officer, or

(iii) the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been caste; or

(iv) it bears mark for more than the number of candidates to be elected.

(7) After the announcement of the results of the election, the Returning Officer shall keep the ballot papers used and unused in a sealed cover and hand them, over to the Secretary for safe custody. The Secretary shall preserve them for three months from the date of announcement of the result of the election. They shall not be destroyed after the periods noted above, if any dispute relating to or in connection with the election is pending.

(8) The expenditure in connection with the conduct of election shall be borne by the society which shall be limited to the norms fixed by the Government.

(9) The Election Commission shall have powers to issue any directions or guidelines or instructions for the conduct of election to the societies and also to the officers appointed to perform the election duties. The officers appointed on election duty shall be subject to the superintendence, control and discipline of the Election Commission.

(10) The rank of officers to be posted for election duty may be fixed by the Election Commission in consultation with the Government.]

CASE LAWS

For convenience the cases under this head are divided under the heads

1. Election procedure
2. Resolution of the committee
3. Voters List
4. Reservation
6. Nomination
7. Obstructions for election
8. Polling
9. Co-option
10. Election petitions

ELECTION PROCEDURE

Election if not held Laccadive, Minicoy and Amindivi Islands Co-operative Societies Regulation, 1960 - Election to Laccadive Co-operative Marketing Federation - Setting aside of the election meeting and proceedings of the Registrar of Co-operative Societies - Election itself not held - No irregularity in the Registrar investigating the dispute and holding that the election was not held. *In this judgment* **2004 (3) KLT SN 109** *is affirmed and* **1980 (2) SCC 471, 1986 (1) SCC 557** *and* **2003 (4) SCC 579** *are referred to.*

2005 (2) KLT SN 12 C 11 Kasmikoya v/s Registrar of Co-operative Societies

Duties of the Returning Officer and the Registrar Laccadive, Minicoy And Amindivi Islands Cooperative Societies Regulagion, 1960 – Regulation 38, Regulation 50 – Election to Laccadive Cooperative Marketing Federation – Returning Officer had a duty to ensure publication of a draft voters list, and also nomination are to be appropriately accepted, as duly seconded – Powers of Registrar.

The discretion exercised by the Registrar of Cooperative Societies, in accepting the version of the Managing Director after examining the rival claims, cannot be termed as arbitrary or one with bias. Even though theoretically, on appointment of Returning Officer, he has to conduct himself independently and without extraneous supervision, the appointing authority namely the Registrar will have powers as per the said regulations to examine the irregularity of the proceedings of such officer, when it is reported that he failed to discharge his accredited functions. Such enquiry would have been beyond an Election Petition. When irregularity was found, circumstances demanded that, the exercise started from a clean state. Petition had not acquired any tangible civil rights, as recognised by law, and a hearing of the petitioner therefore was not called for. *In this*

judgment **2004 (3) KLT 403** *is referred to.*

2004 (3) KLT SN 151 Kasmikoya v/s Registrar of Cooperative Societies

Active members Cooperative Societies Act, 1969 (Kerala) Section 20 – Provisions in Rule 28 and Rule 35 A (4) have no legal force as they are contrary to provisions contained in Section 20 of the Act.

As per the Proviso to Rule 28 and Rule 35 A (4), only active members shall be eligible to vote. But, the said provisions in the Rules have no legal force as they are contrary to the provisions contained in S.20 of the Act. Therefore, notwithstanding the apparent conflict between the provisions in the Act and the provisions in the Rules,with effect from 4.5.2002 every member of a Society shall have one vote in the affairs of the Society.

2004 (1) KLT 1026 = ILR 2004 (2) Ker 413 = AIR 2004 Ker 329 DB Rajendran v/s State Cooperative Election Commission

Preparation of draft voters list in a postponed election Cooperative Societies Rules, 1969 (Kerala) - Rule 35 – Election process was stopped due to the intervention of the State Cooperative Election Commission on account of the amendment of S.20 conferring the voting right on ordinary members also – When the election is to be held on the basis of a fresh resolution, the list of members qualified to vote at the election should be prepared with reference to the original date fixed for election – No distinction shall be made between ordinary members and active members while preparing the list.

In the light of Rules 26 (2) and 28 (1) of the Kerala Cooperative Societies Rules, a person who acquired the number of shares and was admitted as member of the Bank within 60 days of 9.6.2002, will not be eligible to be included in the voter's list. *In this judgment* **1992 (2) KLT 567** *is referred to.*

2004 (1) KLT 1026 = ILR 2004 (2) Ker 413 = AIR 2004 Ker 329 DB Rajendran v/s State Cooperative Election Commission

Illegal amendment of the bye laws challenged Maharashtra specified Cooperative Societies Elections to Committees Rules, 1971 – R.81(d)(iv), R.4, R.5,R.6, R.7, R.8 – Election- Illegal amendment of the bye laws challenged on the basis of which the electoral roll was prepared – Held, appellant society has to show that the amendments in the bye laws have been carried out in accordance with law – See – Cooperative Societies.

2004 (1) SCC 133 = AIR 2004 SC 1329 FB Ahmednagar Zilla S.D.V. and P. Sangh Ltd and another v/s State of Maharashtra and others

Drawing of lot Constitution of India - Article 19 – Drawing of lot when there is equality of votes – S.79 is not ultravires of the Constitution and does not infringe rights under Art.19 – See – Panchayat Raj Act, 1994, (Kerala), S.79.

2001 (1) KLT 64 Padmanabhan v/s State of Kerala

Declaration subject to final orders Rule 35 (3) (s) - Results of the

election ordered to be declared subject to final orders to be passed in the case. President and Vice President elected. Later Court finding election of two members bad. Fresh election need not be held. Earlier declaration cannot be said to be not a valid one.

1999 (3) KLT 680 DB Chacko v/s Jaya Varma

Giving power through back doors Section 33 - Election not conducted due to non-co-operation of managing committee. The members of the present managing committee, whose term has already expired, cannot be permitted to continue as administrative committee, which would only amount to giving power through back door. *In this judgment* **1999(1) KLJ 885 District Industries Centre v/s Kaithari Neithu Sahakarana Sangom** *and* **1994(2) KLJ 795 Board of Directors Kottappady Service Co-operative Bank v/s Joint Registrar** *are referred to.*

1999 (3) KLT 139 = 1999 (2) KLJ 529 DB Joint Registrar v/s Chatha

Correction of name in the ballot paper Representation of People Act, 1950 - Section 33 (4) – Order rejecting the correction of name in the ballot paper – Held – Write petition is not maintainable against the order of the Returning Officer, as the election process is already started

1999 (2) KLJ 681 DB Mullappally Ramachandran v/s District Collector

Candidates name appearing in electoral rolls of two separate constituencies Representation of People Act, 1951 - Sections 16, 17 18 and 20 with Representation of People Act, 1951, Ss.2(1), 32, 33 & 36 & Constitution of India, Arts.84, 102, 173 & 191 – Candidates name appearing in electoral rolls of two separate constituencies – Nomination filed from one constituency on the basis of roll of that constituency – There is no disqualification – View of High Court that Ss.17 & 18 of the Act, 1950 are not mandatory not approved – 'Ordinary resident' meaning of.

There is nothing to suggest in S.16 of the 1950 Act that if a person's name finds a place in more than one constituency that would automatically entail disqualification from contesting in any one of the constituencies. But if a person's name finds a place in more than one constituency, does it automatically entail the disqualification under S.167? We do not think so. On a careful perusal of the relevant provisions. As extracted above, we are of the view that the High Court was right in rejecting the contention of the appellant that the first respondent was disqualified to contest the Nilanga Constituency as his name was found in two constituencies. We generally agree with the conclusions arrived at by the High Court. However, we are not in agreement with the view taken by the High Court that Ss.17 & 18 of 1950 Act are mandatory. *In this judgment* **AIR 1958 Ker 154, 1997 (2) SCC 228, JT 1988 (3) SC 662, 1985 Supp 1 SCC 179, AIR 1984 SC 1912, 1974 (3) SCC 415, AIR 1965 Punj 361** *and* **1963 (3) SCR 479** *are referred to.*

1999 (2) KLT SN 71 P 66 = 1999 (2) KLJ NOC 41 SC DB Baburao v/s Manikrao

Doctrine of approbate and reprobate and the rule of estoppel General Election Election - Doctrine of - Approbate and reprobate - Doctrine is based on the rule of estoppel and has no application when statutory rights or liabilities are involved.

The doctrine of election is based on the rule of estoppel - the principle that one cannot approbate and reprobate inheres in it. The doctrine of estoppel by election is one of the species of estoppel in pais (or equitable estoppel) which is a rule in equity. By that rule, a person may be precluded by his actions or conduct or silence when it is his duty to speak, from asserting a right which he otherwise would have had. The principle of estoppel has no application when statutory rights and liabilities are involved. It cannot impede right of appeal and particularly the constitutional remedy.

1998 (2) KLJ 655 FB SC Despande v/s Maruti Balaram Haibatti

Election in accordance with relevant Act and Rules Unless approved by the Registrar, do not become effective and therefore election held without approval of bye-laws would be invalid. Registrar, Co-operative Societies stated that amendment to the relevant bye-laws was approved by the Central Registrar. Bye-law further amended and the amended bye-law again certified by the Registrar. Hence Registrar directed to conduct election in accordance with relevant Act and Rules applicable to society.

1997 (1) SCC 356 Goa State Co-operative Bank Ltd v/s Pedne Taluk Prathamic Shikshak Pat Sanusta

Court cannot substitute its decision to that of authority Court under Art 226 can only direct the authority to exercise the power and can not substitute its decision to that of the authority and direct holding of election.

1997 (1) KLT SN 20 P 17 Krishnan v/s Joint Registrar

Government Notification extending period of Committee by six months Section 109 - Kerala Co-operative Societies Rules (1969), Rule 35 - Election to Managing Committee - Government Notification extending period of Committee by six months - Held contrary in view of earlier judgment of High Court - respondent - Society directed to appoint Returning Officer to conduct election.

AIR 1996 Ker 123 C.K. Mohammedkutty, v/s The Joint Registrar of Co-operative Societies, Malappuram and others

Application for admission to membership pendning election Section 109 - Kerala Co-operative Societies Rules (1969), Rule 35 - Application for admission to membership-Pendency - Neither Returning Officer was appointed nor date of election was announced - Application can be considered.

AIR 1996 Ker 123 C.K. Mohammedkutty, v/s The Joint Registrar of Co-operative Societies, Malappuram and others

The democratic life and its continuance is the life of the Kerala Co-operative Societies Act, 1969 Section 31 (1) (b) (ii) - What is impermissible and prohibited by the direct statutory provision and in additional what is based and germane to the existence of a particular co-operative institution cannot be deemed by a process of perpetuation. The democratic life and its continuance is the life of the Kerala Co-operative Societies Act, 1969. Administrator is an exception and at least the statutory authorities that are duty bound in law to put into effect the purpose of the legislation should not place before the court a ground has sufficiently become stale by reason of passage of time as a difficulty in the process of elections.

1995 (2) ILR SN 11 P 9 Sundaran Pillay v/s Joint Registrar and others

Election to Central Society need not be stopped Rule 35 - Election to Central Society - Need not be held up because election to few primary societies are held up. If appellant not able to conduct election in small number of 45 societies out of 465, election to Central Society need not be stopped. *In this judgment* **AIR 1957 SC 694 Dr. N.B. Khare v/s Election Commissioner of India** *and* **1974 AIR 1974 SC 1682 In re Presidential Election** *are followed.*

1993 (3) ILR 291 = 1993 (1) KLJ 914 DB Joint Registrar of Co-operative Societies and another v/s Sivaraman and another

Member cannot vote within 30 days of payment Co-operative Societies Rules, 1969 (Kerala) - Rule 28 - If the full payment of share capital falls within the period mentioned in Rule 28, the member cannot vote at any meeting falling within 30 days of such payment. *In this judgment* **1985 KLT 836 George v/s State of Kerala** *is referred to and* **1990 (1) KLT 695 Krishnan Ezhuthachan v/s Assistant Registrar** *is partly approved.*

ILR 1993 (2) Ker 710 = 1993 (1) KLJ 1222 = 1993 (1) KLT 114 DB N.K. Vasavan v/s The District Coir Project Officer and others

Member within thirty days if acquires number of required shares, is eligilble to vote Co-operative Societies Rules, 1969 (Kerala) - Rule 28 - Any person admitted to a Society as per its bye-law as a member thirty days prior to the date of election, if acquires number of required shares, is eligilble to vote in the election of its committee.

ILR1993 (2) Ker 699 = 1993 (1) KLJ 122 = 1993 (1) KLT 114 N.K. Vasavan v/s District Coir Project Officer and others

Non-co-operation of managing committee Co-operative Societies Act, 1969, (Kerala) - Section 33 – Election not conducted due to non-co-operation of managing committee – Members of the managing committee whose term had already expired cannot be permitted to continue as administrative committee.

Under S.33 of the Act, power is given to the Registrar of Co-operative Societies to appoint, after intimating the Circle Co-operative Union, a new

committee consisting of not more than 3 members of the society; or one or more administrator or administrators, who need not be a member or members of the society, to manage the affairs of the society for a period not exceeding 6 months as may be specified in the order, which period may be extended from time to time at the discretion of the Registrar, for reasons recorded in writing, under the contingencies enumerated in the said Section. *In this judgment* **1999 (1) KLJ 885** *and* **1994 (2) KLJ 795** *are referred to.*

1999 (3) KLT 139 = 1999 (2) KLJ 529 DB Joint Registrar v/s Chatha

Appointment of observers The Court cannot make appointment of observers to oversee the election as is not prescribed under the Rule. The rules prescribe elaborate provision for the conduct of election to the committee. The inherent power of the court are intended to serve the ends of justice. In the context of election to the committee under the provisions of the Act and Rules, justice means justice according to procedure prescribed by the Act and Rules. The appointment of observers will create parallel machinery to supervise the function of the statutory machinery, there by interfering with the administration of law.

1993 (2) KLT 625 Narayanan Nambiar v/s State

Illegally appointed Returning Officer The Returning Officer was appointed by a person who had no right to make appointment - The Returning Officer conducted the election as scheduled. The appointment of the Returning Officer not challenged. The election conducted is not invalid and it was done by the Returnig Officer within the scope of his authority and in the interest of public. He is an officer defacto and his acts cannot be questioned collaterally and are valid if they were of officers appointed de jure.

1993 (1) KLT 725 = 1993 (1) KLJ 613 Raghavan Nair v/s Joint Registrar

Member cannot vote within 30 days of payment Co-operative Societies Rules, 1969 (Kerala) - Rule 28 - If the full payment of share capital falls within the period mentioned in Rule 28, the member cannot vote at any meeting falling within 30 days of such payment. *In this judgment* **1985 KLT 836 George v/s State of Kerala** *is referred to and* **1990 (1) KLT 695 Krishnan Ezhuthachan v/s Assistant Registrar** *is partly approved.*

ILR 1993 (2) Ker 710 = 1993 (1) KLJ 1222 = 1993 (1) KLT 114 DB N.K. Vasavan v/s The District Coir Project Officer and others

Disqualification continues even after postponement of election Co-operative Societies Rules, 1969 (Kerala) - Rule 26 – A Member disqualified under the rule will not be entitled to vote in the 'said election' even if the election originally fixed is postponed to another date. *In this judgment* **AIR 1986 SC 687 Prakash Chandra v/s Commissioner and Secretary, Government of Kerala** *is referred to.*

ILR 1993 (1) Ker 465 = 1992 (2) KLJ 645 = 1992 (2) KLT 567 DB Madhavan Namboodiri v/s Kumaran and others

Fresh resolution needed if election is postponed The Returning Officer becomes functus officio after the procedure of the election are over when an election is set aside and fresh election is directed it can only be on the basis of a resolution adopted under Rule 35. Persons who became members meanwhile can also participate in the election and the only prohibition is for persons enrolled within 60 days of that election. The Returning Officer cannot be directed to conduct fresh election since he has became functus officio.

1992 (2) KLJ 541 M.S. Paul v/s Alakode Service Co-operative Bank

No need of share certificates to vote The resolution of the General Body of the society stipulating the condition that only those who produce the share certificates could be allowed to vote whether it is valid under Rule 35 of the Rule - held as invalid.

1992 (1) KLT 418 Abdul Latheef v/s Joint Registrar

Publication in news papers is proper notice for convening election general body Section 29 - Kerala Co-operative Societies - Rules 1969 Rule 35 (3) - Election to the committee of a society should be held in conformity with the provisions contained in 35 of the Rules. How the committee is to be elected is not a matter to be found out from the bye-laws, but it is to be in conformity with rule 35 of the Rules. The procedural aspects contained in the bye-laws regarding the service of notice etc. have no relevance in constituting the committee under Section 28 of the Act. Information can be given to members by publication in news papers. Such publication can certainly be taken as proper notice for convening the general body. Publication in two vernacular dailies is an accepted mode of giving intimation of elections.

1989 (1) KLJ 617 = 1989 (1) KLT 689 C Madhava Das and others v/s Kerala Co-operative Tribunal and others

Notice and intimation Rule 35 (a) not ultravires of Section 104 of Co-operative Societies Act, 1969 - "Notice" and "intimation" meaning and distinction discussed.

1987 (1) KLT 201 Kunhikrishnan v/s Secretary, Nadapuram Service Co-operative Bank Ltd

Disqualification of an individual member Disqualification of an individual member will not invalidate the entire elections.

1986 KLT 1213 Venugopalan v/s Cooperative Tribunal

No new member can be admitted on or after 1st of April of the year in which the term expires Co-operative Societies Rules, 1969 (Kerala) - Rules 26 and 35 - Right of new members to participate in election – No new member can be admitted on or after 1st of April of the year in which the term expires. *In this judgment* **1984 KLT 628 Valsarai v/s Joint Registrar** *and* **1983 KLT 1038 Govindan v/s Deputy Registrar of Co-operative Societies** *are distinguished.*

ILR 1986 (1) Ker 407 DB P.K. George v/s The Joint Registrar of Co-operative Societies Calicut and others

Notice and intimation Rule 35 (3) (a) - Co-operative Societies Act, 1969 (Kerala), Section 104 - The term notice connotes something more concrete than a mere disclosure or intimation. The term notice is associate with direct, specific and definite intimation effectively given. Rule 35 (3) (a) subtly speaks only of intimation and not of notice. The Rule insists only on intimation being given. There is no inconsistency between Rule 35 (3) (a) and Section 104 of the Act.

1986 KLT 43 Kunhikrishnan v/s Secretary Nadappuram Service Co-operative Bank Ltd

Share Certificate not necessary to vote Rule 35 - The Secretary had stipulated in the notice that only those who produce the share certificate alone would be allowed to vote. So long as the Rules do not insist on the production of the Share Certificate as a condition precedent for exercise of the franchise, such a stipulation cannot be imposed by any authority whatsoever. Hence the impugned stipulation was totally unauthorised and therefore illegal and invalid.

1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies

Declaration of result Co-operative Societies Rules, 1969 (Kerala) - Rule 35 (3) (h) - When the number of candidates whose nomination are declared valid does not exceed the number of candidates to be elected the Returning Officer is bound to declare them elected on the day fixed for election. *In this judgment* **1974 KLT 783 Mavelikara Co-operative Housing Society Ltd v/s Alleppey District Co-operative Bank** *is referred to and* **1982 KLT 995 Abubacker v/s Kunhavaran** *is relied on.*

ILR 1984 (2) Ker 196 = 1984 KLT 850 M. Chandran Pillai v/s the State of Kerala and others

Filing of nomination The date on which nomination papers were to be filed and the date on which polling is to be held has to be excluded in computing the periods of seven days.

1983 KLT 627 = 1983 KLN 417 Rajachandran Pillai v/s Gireesan

Rule 35 is mandatory There is no provision in the Act or Rule which provide the grounds upon which an election can be invalidated. The absence of any such provision and also the presence of the expression "shall" in almost every provision of Rule 35 shows that every sub rule mentioned in Rule 35 is mandatory and violation of any one provision in Rule 35 will vitiate the election and make it void.

1979 KLT 528 Thankappan and others v/s Co-operative Tribunal and others

Validily of Rule 35(2) Rule 35(2) is within the rule making power of the Government and valid.

1976 KLT SN 22 Kunhambu v/s Deputy Registrar of Co-operative Societies

RESOLUTION OF THE COMMITTEE

Supersession and resolution vide Rule 35 A (1) Co-operative Societies Rules, 1969 (Kerala) - Rule 35 A (1) – Issuance of a notice under S.32 (1) – Held, it does not disentitle the Board of Directors to exercise the rights or powers under the Act or the Rules and to pass a resolution under Rule 35 A (1) -See- Cooperative Societies Act, 1969 (Kerala) Section 32 (1).

2004 (1) KLT 91 = 2004 (1) KLJ 321 DB Bhaskaran v/s Jose Joseph

Resolution only when term is due to expire Rule 35 - Election - Committee can request for appointment of returning officer for purpose of election of a new Committee only when its term is due to expire.

Election to the Committee of a co-operative society is governed by the statutory provisions contained in Rule 35 of the Kerala Co-operative Societies Rules. The said Rules deals with the procedure for conduct of election. When a particular procedure is statutorily prescribed from the conduct of election, necessarily that statutory mandate shall be followed without fail. There cannot be any elasticity when the statute prescribes a particular procedure. So the committee can request for appointment of a returning officer for the purpose of election of a new Committee only when its terms is due to expire.

2002 (1) KLT 638 Thodupuzha Taluk Co-operative Marketing Society v/s Joint Registrar of Co-operative Societies

60 days period cannot be treated as infallible Rule 35 (1) - Resolution passed within 60 days of the expiration of the term of the committee for holding the election cannot be considered as invalid - 60 days period cannot be treated as infallible-The period of 60 days can only be treated as directive and cannot be taken as a mandatory provision.

The new Board of Directors should come into existence before the term of office of the previous Board expires. The new Board can come into existence only on the expiry of 35 days from the dates of appointment of the returning officer. To achieve this purpose clause (1) of rule 35 provides that the committee on office should meet at least 60 days in advance of the date of expiration of its term and pass a resolution fixing the date for the conduct of the election of the new Board of Directors. The period of 60 days mentioned therein is taken as sufficient time to enable the election to be held and the new Board of Directors constituted. The resolution passed by the Board of Directors of a Co-operative Society for holding election cannot be considered as invalid on sole ground that the resolution happened to be passed within 60 days of the expiration of its term.

1996 (1) KLT 669 = 1996 (1) KLJ 239 = ILR 1996 (2) Ker 253 George Abraham v/s Assistant Registrar of Co-operative Societies

Resolution can be corrected The managing committee has the power to

correct any error that has crept in the earlier resolution - That would not make the subsequent resolution a fresh but would make it only a part of the original resolution. Existence of a gap of 60 days in between the resolution and the holding of election is not mandatory.

1993 (2) KLT 701 Cherian K. Anthrayose v/s Joint Registrar

60 days means that between the date of resolution and the date of expiry of the term of the committee Rule 35(1) - Sub-Rule (1) of Rule 35, requires that the committee shall meet for the purpose of such resolution, "atleast 60 days" in absence of the date of expiration of its them. The words "atleast 60 days' mean that between the date of resolution and the date of expiry of the term of the committee, a minimum of 60 days must elapse. These words do not mean that such a resolution could be passed 180 days in advance of the date of expiry of the term of the committee. The words "atleast 60 days" used in sub-rule (1) of Rule 35 mean that the resolution must be so passed that there is between the date of the resolution and the date of the expiry of the term of the committee a period of "60 clear days"

1993 (1) KLT 927 = 1993 (1) KLJ 932 Sugathan v/s Joint Registrar

Court cannot substitute the decision of the statutory authorities Rule 35 - Venue of election changed due to law and order situation after notification cannot be interfered in a proceedings under Article 226 of the Constitution. In matters like fixing of venue of election, court cannot sit in judgment over the decision of the statutory authorities and come to a conclusion independently. The suitability of the venue of the conduct of election is a matter for the statutory authorities concerned to assess taking into account various factors. Court cannot substitute its own opinion for that of the authorities concerned and come to its conclusion applying its own perspective as to which place is more suitable for the venue of election. It is better left to the wisdom of the authorities themselves.

1993 (1) KLT 128 = 1993 (1) KLJ 171 Raghavan and others v/s Commissioner and Special Secretary

Resolution cannot be ignored by the Registrar Co-operative Societies Rules, 1969 (Kerala) - Rule 35 - Resolution passed by the Managing committee to hold election within 60 days cannot be ignored by the Registrar – He has to appoint a returning Officer to conduct election. *In this judgment* **1979 KLT 528 Thankappan v/s Co-operative Tribunal** *is explained and* **1990 (1) KLJ 474 Govindankutty v/s State** *and* **1990 (2) KLJ 530 Antony Jerame v/s Joint Registrar of Co-operative Societies** *are relied on.*

ILR 1992 (3) Ker 417 Board of Directors of A.K.G. Memorial Co-operative Dispensary Society Ltd v/s Joint Registrar of Co-operative Society and others

Managing committee has authority and jurisdiction to fix a new date If the election was not conducted on the date originally fixed, the

managing committee has authority and jurisdiction to fix a new date for election. It is not necessary to repeat whole process as contemplated under Rule 35. But who are entitled to vote will have to be determined taking into account the original date of election and not the adjourned date of election. *In this judgment* **1974 KLT 783** *and* **1977 KLT SN 28 P 10** *are overruled.*

1992 (2) KLT 567 = 1992 (2) KLJ 645 = ILR 1993 (1) Ker 465 Madhavan Namboodiri v/s Kammaran

If valid resolution is taken administrator cannot be appointed If the existing committee of the society had passed a valid resolution before 60 days of the expiry of the term as contemplated under Rule 35 (1) and the same was forwarded to the Registrar by registered post in a week, the power of appointment of an administrative committee or Administrator shall not be resorted to.

1992 (2) KLT 526 = 1992 (2) KLJ 551 Bappu Haji v/s Joint Registrar

Administrator and Election Co-operative Societies Act, 1969 (Kerala) - Section 28 (1 B) and Rule 35 (1) - Administrator being in the position of a committee, has to comply within the time limitations mentioned in Rule 35 and subject to that he has to exercise powers under Section 28 (1B). Court in proceedings under Article 226 can only direct the administrator to exercise the power and cannot fix a date of for election. Cannot substitute its decision to that of the Authority.

1992 (2) KLT 220 = 1992 (2) KLJ 28 = 1992 (3) ILR 401 DB State of Kerala v/s Thilothaman

Committee to fix a date for election It is for the administrator or committee to fix a date for election under Rule 35 (1) and to take steps within the time provided. As the statute confers power or discretion in a statutory authority, the court could only direct authority to exercise that power and the court cannot substitute its decision to that of the said Authority.

1992 (2) KLT 220 = 1992 (2) KLJ 28 = ILR 1992 (3) Ker 401 State of Kerala v/s Thilothama

60 days not mandatory but taking the resolution is mandatory Rule 35 (1) - Period of 60 days provided is not mandatory. Any resolution taken within that period is liable to be acted upon. Even if the managing committee cannot hold the election due to expiry of its period, the Administrator may have to hold the election, based on the resolution. The very purpose of the sixty days rule is to ensure the smooth transition of the administration from one elected body to another without any break in between. A resolution passed within sixty days of the expiry of the term of the committee is nevertheless a valid resolution in that the committee is validly in office entitled to pass the resolution. It is not liable to be ignored in ordinary course. The effect of such resolution within sixty days may be that the managing committee in office cannot itself hold the election: it

may have to be held by the Administrator, who may be appointed on the expiry of the terms of the Committee. The consequence of ignoring such a resolution, on the other hand, is to make it imperative to appoint an Administrator for the society after the expiry of the term of the committee, and then to leave it to the Administrator to pass resolution for holding an election. That is a direction and a reminder to the managing committee to act in time. The prescription of the time of sixty days in Rule 35 (1) is not mandatory, though the passing of a resolution is mandatory.

1992 (2) KLJ 19 P.K. Karunan Nair and others v/s Joint Registrar and others

Election General Body in accordance with the bye-laws Rule 35 (1) - Rule 35 (1) does not provide for adoption of a resolution for convening of the General Body meeting. A General Body meeting for the purpose of election can be convened in accordance with the bye-laws. It is only to enable the members to cast their vote in the election.

1992 (2) KLT 18 = 1992 (2) KLJ 11 Sudevan v/s Joint Registrar

Appointment of Returning officer is mandatory Rule 35 (2) - Registrar on receipt of resolution to straight away appoint returning officer for conduct of election with no discretion in the matter. Commencement of process of election cannot be delayed or defeated by inaction on the part of the Registrar. No power to Registrar to ascertain whether resolution properly adopted and whether defective in any manner. The word "may" in sub-rule 2 of Rule 35 therefore means "shall" and the Registrar has no discretion.

1992 (2) KLT 18 = 1992 (2) KLJ 11 Sudevan v/s Joint Registrar

Sixty days in Rule 35 (1) is not mandatory, though the passing of a resolution is mandatory Rule 35 (1) - When the very purpose and intendment of the sixty days Rule is to ensure continuity in the administration by an elected body in office, it should follow as a necessary corollary that governance by Administrator should, even if unavoidable, be reduced to the minimum. There is no bar in Rule 35 to the passing of a resolution within sixty days nor is any such resolution expressly invalidated. The law as it stands does not render non-est a resolution passed within sixty days, making it liable to be ignored and leaving it to the Administrator to pass a resolution at his own leisure, and then to hold the election. The period of administration by an officially appointed Administrator should be the barest minimum and that will be sustained only if the resolution passed by the committee, even if within sixty days, is taken into account and acted upon. In fact, the Rule does not provide the consequence of not passing a resolution in advance of sixty days. What it only provides is that the resolution should be passed sixty days in advance. That is a direction and a reminder to the managing committee to act in time. The prescription of the time of sixty days in Rule 35 (1) is not mandatory, though the passing of a

resolution is mandatory.

1992 (1) KLT 822 = 1992 (3) ILR 417 A.K.G. Memorial Co-operative P.D. Society Ltd v/s Joint Registrar

The meaning and the intension of the legislature must govern Resolution passed by the managing Committee to hold election within 60 days cannot be ignored by the Registrar. He has to appoint a Returning Officer. The question whether a particular provision is mandatory or directory depends not on its form, nor on the language in which it is couched, but upon the intent of the legislature, the meaning and the intension of the legislature must govern and they are to be ascertained not only from the phraseology of the provision, but also by considering its nature

ILR 1992 (3) Ker 417 = 1992 (1) KLT 822 A.K.G. Memorial Co-operative Dispensary Society Ltd v/s Joint Registrar

A resolution to be valid has to pass a dual test Rule 176 enables the Registrar to rescind a resolution if it is against the provisions of the Act, Rules or Bye-laws. The rule is intended to subserve a definite purpose to provide effective control and supervision by the department over the functioning of the Co-operative Societies, a power which finds statutory expression in Section 66 of the Act. The reasonable reading of Rule 176 should be that it posits not merely invalidity by reason of the resolution being plainly contrary to Act, Rules or the Bye-laws; invalidity caused by illegalities in the very convening or the conduct of the meeting at which it was passed. A resolution to be valid has to pass a dual test. It should not be contrary to Act and Rules or Bye-laws. It should also be passed at a meeting convened and held in accordance with law. The Act, the Rules, the Bye-laws contemplate only resolutions passed at meetings properly convened and held.

1990 (1) KLT 374 George v/s Secretary Manimala Service Co-operative Bank Ltd

VOTERS LIST

Illegal amendment of the bye laws challenged Co-operative Societies – Election- Illegal amendment of the bye laws challenged on the basis of which the electoral roll was prepared – Held, appellant society has to show that the amendments in the bye laws have been carried out in accordance with law. *In this judgment* **2001 (8) SCC 509** *is relied on.*

2004 (1) SCC 133 = AIR 2004 SC 1329 FB Ahmednagar Zilla S.D.V. and P. Sangh Ltd and another v/s State of Maharashtra and others

Election proceedings were stopped after publishing the preliminary voters' list and before publishing the final voters' list Cooperative Societies Rules, 1969 (Kerala) - Rule 35 A (4) – Election proceedings were stopped after

publishing the preliminary voters' list and before publishing the final voters' list due to amendment of Section 20 – Since the election could not be conducted on the date as originally decided by the Administrative Committee, it is necessary to pass a fresh resolution and a fresh notification.

While preparing final voters' list the Electoral Officer cannot ignore the fact that the ordinary members of the Bank were wrongly excluded from the preliminary voters' list and the Electoral Officer will have to publish the final voters' list including the ordinary members also. In such a situation also, the demand of the appellant to conduct the election based on the voters' list containing only active members of the bank will not be accepted. Hence ultimately there will not be any material difference for the appellant even if the election proceedings are continued from the stage where it was stopped.

2004 (1) KLT 1026 = ILR 2004 (2) Ker 413 = AIR 2004 Ker 329 DB Rajendran v/s State Cooperative Election Commission

A person enrolled in the electoral roll has a right to vote Representation of the People Act, 1951 - S.100, S.23, S.83 – Electoral roll becomes sacrosanct the time at which time for presentation of nomination ends – Mere fact that the issues framed involve consideration of a question will not be a substitute for definite pleadings under S.83 – The mere fact that an identity card was obtained does not invest the recipient with a right to vote - A person enrolled in the electoral roll cannot be excluded from exercising his right to cast vote on the ground that he did not satisfy the eligibility requirements. *In this judgment* **AIR 1986 SC 1253, AIR 1985 SC 1233, 2002 (1) SCC 160, AIR 1995 SC 2284, AIR 1969 SC 1201, AIR 1987 SC 2179, AIR 1996 SC 112, AIR 1966 SC 1861, AIR 1984 SC 1911, AIR 1973 SC 2362, 2000 (8) SCC 46, 1974 (3) SCC 415** *and* **1977 (4) SCC 153** *are referred to.*

2003 (2) KLT SN 105 = 2003 (2) KLJ 240 Palode Ravi v/s Mandoge Radhakrishnan

No right to raise objections not raised before the Returning Officer Returning Officer publishing draft voters list inviting objections - Objections filed by the petitioner considered and rejected. Petitioners have no right to raise objections not raised before the Returning Officer in the court.

O.P. No. 9316/96 H *decided on* **19-6-1996 Joy K.D. and others v/s Deputy Director, Dairy Development**

Admission of members and their qualifications for voting Section 109 - Kerala Co-operative Societies Rules (1969), Rule 35 - Election - Powers of Returning Officer - Objections as to draft list of qualified votes - Admission of members and their qualifications for voting - Cannot be gone into by Returning Officer while considering such objections.

AIR 1996 Ker 123 C.K. Mohammedkutty, v/s The Joint Registrar of Co-operative Societies, Malappuram and others

Power to make an enquiry regarding eligibility of a voter Rule 35 - Returning Officer has power to make an enquiry regarding eligibility of a voter to be included in the voters list, if the objections are definite and specific - He should verify them with the materials placed before him, by the objectors and authorities of the society.

If a member has not complied with the condition laid down in Rule 28, he does not cease to be a member. What is restricted is his right to vote in the election. Rule 35 of the Rules on the other hand, lays down the duties and responsibilities of the Returning Officer to publish the final list of eligible voters. If the Returning Officer declares a member to be an ineligible voter, he does not expel him thereby from the membership of the Society. A member who is disqualified as a voter may still continue to be a member of the society if he is not otherwise disqualified to be a member Rule. 35 (3) (d) of the Rules deals with the qualifications for nomination as a candidate for election to the committee. Power is given to the Returning Officer under clause (e) to scrutinise the nomination papers and reject the same in case objections are sustained after summary enquiry.

The powers to consider the objections has been conferred on the Returning Officer alone. In order to arrive at a proper decision it is open to him to conduct a summary enquiry to be satisfied about the sustainability or otherwise of the objections. But, he can do so only if the objections are specific and definite against each individual member which can be subjected to verification with reliable materials that may be made available to him by the objectors and the authorities of the Society. He cannot simply forward the objections to the authorities of the society for their verification. If, the objections are general or vague in nature or appear to be prima facie baseless, the Returning Officer is not bound to make any enquiry. The Returning Officer has the power to make an enquiry into the objections if the same are definite and specific and he should verify them with the materials placed before him by the objectors and the authorities of the Society. In these cases, the objections being vague in nature, there is no scope to hold an enquiry. *In this judgment* **1992 (2) KLT 60 Mathew v/s State of Kerala** *and* **1994 (2) KLT 506 Kottappady Service Co-operative Bank v/s Assistant Registrar** *are overruled,* **1994 (1) KLT 512 Alleppey District Co-operative D.S. Co-operative Society Ltd v/s Joint Registrar** *is partly overruled and* **1993 (1) KLT 293 Vasavan v/s District Coir Project Officer** *is referred to.*
1996 (1) KLT 285 = 1996 (1) KLJ 179 = ILR 1996 (2) Ker 19 = AIR 1996 Ker 150 Vijayakumar v/s Joint Registrar

Removal of ineligible voters Removal of ineligible voters / members is not within the purview of the Returning Officer. A member once admitted continue to be a member unless expelled under Section 17 or removed after following the procedure contained in Rule 16 (3). The power of the expulsion or

removal after following the procedure contained in Rule 16 (3). The power of the expulsion or removal is vested with the General Body or the Managing Committee respectively and his power is limited to make the voters list in accord with the membership roll, to supply omissions therein, delete duplications, correct mistakes in the details or remove admittedly dead persons and the like. *This judgment is overruled in* **1996 (1) KLT 285 Vijaya Kumar v/s Joint Registrar** *and dissented in* **1994 (1) KLT 512 Alleppey Co-operative Department Staff Co-operative Society v/s Joint Registrar**

1994 (2) KLT 506 Kottappady Service Co-operative Bank v/s Assistant Registrar

Statutory requirement of a voters list Co-operative Society's Rules 1969 (Kerala) - Rule 35 (6) Specification of the admission number, name of the member, name of the father or husband and address of such members in the votes list is the statutory requirement of the Rule.

1994 (1) KLT 828 Joseph v/s Kothamangalam Co-operative M. Society Ltd

Final list of eligible voters Returning Officer appointed under Rule 35 (2) is bound to prepare final list of "eligible voters" considering objections".The Returning Officer shall publish a final list of "voters" but "eligible voters" so he should return the list of voters to the committee for consideration. The committee has to prepare the list in accordance with the provisions of the Act, Rule and Bye-laws and sent back to the Returning Officer - Duty of Returning Officer.

1994 (1) KLJ 575 = 1994 (1) KLT 512 Alleppey District Co-operative Society v/s Joint Registrar

Returning the voters list to the Committee Rule 35 - Returning Officer appointed under Rule 35 (2) has in the process of considering objections to a voters list, the authority to return the list of the Managing Committee to the society for reconsideration. *This judgment is dissented from in* **1994 (2) KLT 506 Kottapady Service Co-operative Bank v/s Assistant Registrar,** *partly overruled in* **1996 (1) KLT 285 Vijayakumar v/s Joint Registrar** *and distinguished in* **1994 (2) KLT 60 M.J. Mathew v/s State of Kerala and others.**

1994 (1) KLT 512 = 1994 (1) KLJ 575 Alleppey District Co-operative D.S. Co-operative Society Ltd V/s Joint Registrar

Power of Returning Officer to decide eligibility to vote Rule 35 (2) - The Returning Officer does possess the authority to decide whether members listed by the committee are eligible to vote. He acts within his authority when he returns the list of voters to the committee for reconsideration.

1994 (1) ILR SN 68 P 47 The Board of Directors v/s Joint Registrar of Co-operative Societies and others

Returning Officer cannot usurp the powers of the Committee The Act and Rule having conferred a right of expulsion or removal of member in the Managing Committee and the Registrar, that power cannot be usurped by the

Returning Officer under the guise of the authority given to him to consider the objections to the preliminary voters list. *This judgment was overruled by* **1996 (1) KLT 285 = 1996 (1) KLJ 179 = ILR 1996 (2) Ker 19 = AIR 1996 Ker 150 Vijayakumar v/s Joint Registrar**

1992 (2) KLT 60 = 1992 (2) KLJ 91 Mathew v/s State of Kerala

Returning officer cannot probe into eligibility or otherwise of a member admitted before 60 days of the election Rule 35 - Objections contemplated under Rule 35 (3) (b) do not include objections relating to ineligibility of Member admitted before 60 days prior to date of Election or date of General Body. Objections regarding inclusion of names admitted after the resolution under Rule 35 (1) before Returning officer. Returning officer cannot probe into eligibility or otherwise of a member admitted before that date.

1992 (2) KLT 60 = 1992 (2) KLJ 91 Mathew v/s State of Kerala

Preparation of Electoral Roll Co-operative Societies Rules, 1969 (Kerala) - Rule 35 (b) - Preparation of Electoral Roll – Requirements of.

ILR 1976 (1) Ker 95 = 1976 KLT 40 Devassy v/s Assistant Registrar of Co-operative Societies

Electoral roll If there is no proper electoral roll, the court can interfere in exercise of its jurisdiction under Article 226 of the constitution.

1976 KLT 40 = ILR 1976 (1) Ker 95 Devassykutty v/s Assistant Registrar

RESERVATION

Person married to one belonging to ST Representation of the People Act, 1951 - Election - Caste eligibility - Fact that appellant had married a person belonging to scheduled tribe, would not confer upon her the status of belonging to Scheduled Tribe - Principle that woman acquires caste of her husband not attracted for purposes of reservation under Article 16 (4) of Constitution. *In this judgment* **AIR 1929 PC 135, AIR 1952 SC 231, 1994 (1) SCC 460, 1996 (7) SCC 681, 1973 MPLJ 626, AIR 1972 SC 1840, 1865 (10) MIA 279** *and* **1879-80 (7) IA 212** *are referred to.*

2005 (2) KLT SN 19 C 23 SC FB Shoba v/s Setti Gangadhara Swamy

Ward or constituency for reservation Co–operative Societies Act, 1969 (Kerala) – Section 28A – Rules 35 (3) (a), and 35 A (3) – Election to the Committee – Reservation for woman members and members belonging to Scheduled Castes or Tribes in the Committee – Unless specified in the bye laws the Committee is not competent to determine the ward or constituency for reservation.

The General Body should suitably amend the bye laws either determining the ward/constituencies to be reserved under S.28A or specifying the authority competent to determine and laying down the criteria for such determination. Since the Committee of a Society is not competent to amend the bye laws of the

Society, unless specified 'in the bye laws the Committee is not competent to determine the ward or constituency for reservation under S.28A or to lay down the criteria for such determination.

2004 (2) KLT 969 = ILR 2004 (3) Ker 96 DB Udayakaran v/s Ahammedkannu

Status of a person belonging to Scheduled Caste Election – Reserved constituency – Election petition challenging the status of the respondent as a person belonging to the Scheduled Caste community – Held on facts, nomination of respondent was improperly accepted as he was not shown to be a member of Scheduled Caste.

2003 (8) SCC 204 = JT 2003 Supp 1 SC 557 FB Punit Rai v/s Dinesh Chaudhary

Defective nomination to reserved constituency if otherwise valid has to be treated for a general seat Section 28 A - In the absence of any specification regarding a reserved constituency, a nomination which is otherwise valid in all other respects has only to be treated as candidature for a general seat.

If a candidate has not specified his candidature in respect of a reserved constituency, it has to be taken that the candidature is for a general constituency since that alone is the inference possible. The nomination has to be accepted and the candidate has to be allowed to be contested in the general category. Therefore, the rejection of the nomination papers of the candidates for the only reason of not specifying the constituency as to whether it is general or reserved is not proper.

2002 (3) KLT 386 Padmakumar v/s State of Kerala

Nomination under Section 28 A (3) Section 28 A (3) - The nomination of a member as contemplated by Section 28 A (3) can only be of a member of any of the Primary Societies that have membership in the apex society.

The intention behind Section 28 A of the Act is clear. It provides that every managing committee of a society, including an apex society, should have at least one woman member and one member belonging to the Scheduled Castes/ Scheduled Tribes. Inherent in Section 28 A (1) of the Act is the recognition that every society has woman members and members belonging to the Scheduled Castes/Scheduled Tribes and they should not go unrepresented in the managing committee. Section 28 A (3) of the Act has, therefore, to be understood in the context of Section 28 A (1) of the Act. Sub-section (3) of Section 28 A of the Act as it stood, enabled the nomination of a woman member or a member belonging to the Scheduled Castes/Scheduled Tribes to the committee of the Kerala State Co-operative Bank Ltd., the Kerala State Co-operative Agricultural and Rural Development Bank Ltd. and in the case of a primary credit society or a District Co-operative Bank. Sub-section (3) of Section 28 A of the Act, as substituted by the Amendment Act, Act 1 of 2000, specifically referred to managing committee of any apex or central society at the commencement of the Amendment Act,

1999. It thus took note of managing committee, the term of which had no expired as on the date of that Act. The logical way of understanding the power to nominate conferred by Section 28 A (3) of the Act is to understand it as enabling the Government or the Registrar to nominate a woman member or a member belonging to the Scheduled Castes/Scheduled Tribes from among the members of the societies which constitute the membership of the apex society or the central society. In other words, the nomination contemplated by Section 28 A (3) of the Act should be understood as a nomination of a woman from among the members of the primary societies that are the members of the apex society or the central society and the nomination of a member from among the Scheduled Castes/ Scheduled Tribes members of the primary societies which have membership in the apex society or the central society.

2001 (3) KLT 301 = 2001 (2) KLJ 506 DB Karunan Master v/s State of Kerala

Section 28 A (3) applies to a committee constituted after 1.1.2000

Section 28 A (3) - For Section 28 A (3) to apply, there must be a committee of the apex society in existence as on 1.1.2000, the date on which Amending Act 1 of 2000 came into force - Applies only to elections held after 1.1.2000.

On a literal interpretation of Section 28 A (3) of the Act as amended by Act 1 of 2000 it is clear that there was not in existence any committee of the apex society to which the Government could nominate the two contemplated members in exercise of power under Section 28 A (3) of the Act.

At the same time, the election held on 3.1.2000 has gone against the mandate of Section 28 A (1) of the Act as amended by Act 1 of 2000. It is therefore clear that there has come into existence a managing committee of the apex society without complying with the mandate of Section 28 A (3) of the Act as amended and at the same time without enabling the Government to exercise its power under Section 28 A (3) of the Act on a proper construction of that provision. The challenge to the exercise of power under Section 28 A (3) of the Act as amended has therefore to succeed in this case on the short ground that there existed no managing committee of the apex society as on 1.1.2000 to which the Government could nominate two members one a woman and the other a member of the Scheduled Castes or Scheduled Tribes.

2001(3) KLT 107 DB Jose Kuttiani v/s State of Kerala

Scheduled Caste person marrying a woman not so is still eligible

Constitution of India - Article 226 – Person belonging to Scheduled Caste marrying a woman not belonging to S.C. is still entitled to all benefits available to a S.C.

Another circumstance taken note of by the committee is the second marriage of the petitioner. As the petitioner married a Ezhava, the scrutiny committee states that petitioner also belongs to Ezhava community. We don't think that this can be accepted especially after the commencement of Hindu

Marriage Act. The marriage among any Section of Hindus is possible. Only thing is that the marriage should be in accordance with the customs and ceremonies of one of the spouses.

2000 (2) KLT 913 = AIR 2000 Ker 313 DB Haridasan v/s State of Kerala

Courts have no power except to give effect to the notification Constitution of India - Articles 341(1) & 342(1) – Courts have no power except to give effect to the notification issued by the President specifying the Scheduled Castes and Tribes.

Courts, have no power except to give effect to the notification issued by President. It is settled law that Court would look into the public notification under Arts.341(1) or 342(1) for a limited purpose. Notification issued by President and the Act of the Parliament under Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976 and the Schedules appended thereto can be looked into for the purpose to find whether the castes, races or tribes are parts of or groups within castes, races or tribes shall be Scheduled Castes for the purpose of Constitution. Under Amendment Act, 1976, again Parliament has included or excluded from Schedules appended to Constitution which are now conclusive. Such one relates to Scheduled Tribes. *In this judgment* **AIR 1995 SC 94 & 1506, AIR 1972 SC 1840, 1965 (1) SCR 316, 1965 (2) SCR 874, 1990 Supp SCC 220** *and* **JT 1996 (2) SC 182** *are relied on and* **1994 (5) SCC 244** *and* **2000 (1) Supreme 38** *are referred to.*

2000 (2) KLT 811 = AIR 2000 Ker 262 DB Vijayalakshmi v/s Tahsildar

Estoppel and cancellation of a wrong SC/ST certificate Estoppel – On cancellation of a wrong SC/ST certificate, the person concerned is not entitled to plead estoppel merely on the ground of having enjoyed the status under such certificate for a long period.

It has to be noted that by getting the benefits, appellants have denied those to persons genuinely belonging to Scheduled Tribe. When a person belonging to Scheduled Tribe competes with others on merits and gets selected on merits, the posts reserved for Scheduled Tribe does not get exhausted. That is because the intention is to give benefit to one who is deficient and may not be able to compete on merits. Therefore, one cannot usurp the benefit meant for another, who is under-privileged. In **State of Tamil Nadu and others v/s. A. Guruswamy's case 1997 (3) SCC 342**, it was held that principle of promissory estoppel is inapplicable. On cancellation of a wrong SC/ST certificate, the person concerned is not entitled to plead estoppel merely on the ground of having enjoyed the status under such a certificate for a long period. That would amount to protection of the fraud perpetrated and thereby defeat the Constitutional objective. In such cases, consequences have to follow. *In this judgment* **1997 (3) SCC 244** *is followed.*

2000 (2) KLT 811 = AIR 2000 Ker 262 DB Vijayalakshmi v/s Tahsildar

If mother and grand mother are SC childern also belong to SC Articles 14 and 226 – Admission – Reservation – Mother and grandmother belong to Scheduled Caste – Father and grandfather belong to forward caste – Children born can be treated only belong to Scheduled Caste.

In the face of Ext. P8, it is wrong to say that the appellant not entitled to the benefit of Scheduled Caste Community for the purpose of admission, In Ext.P13, it is stated that the children born of intercaste marriage for all purposes, according to which the children born of intercaste marriage for all purposes, according to which the children will be treated as belonging to Scheduled Caste or Scheduled Tribe Community, if either of the parents belongs to that community. Respondents have no case that the entry with regard to community as entered in SSLC Book and in the intercaste marriage report of appellant's mother has been cancelled.

2000 (1) KLT 425 = 2000 (1) KLJ 97 DB Bindu v/s State of Kerala

Person born of Christian parents cannot claim to be member of Scheduled Caste Constitution of India - Article 341 – Person born of Christian parents cannot claim to be member of Scheduled Caste if his parents converted prior to his birth and ceased to be members of the Scheduled Caste – His subsequent convertion into a Scheduled Caste Community also will not entitle him to claim the benefits available to Scheduled Caste.

It is more so in the case of a Hindu, because no non-Hindu can be in the caste according to rules and regulations. A caste may consist not only of persons professing Hindu religion, but also some other persons professing some other religion as well. Conversion from Hinduism to other religion may not involve loss of caste, because even persons professing such other religion can be members of the caste. Persons laying claim to membership of certain scheduled caste, born of Christian parents, cannot claim to be member of scheduled caste, if his parents converted prior to his birth and ceased to be a member of scheduled caste. *In this judgment* **AIR 1996 SC 1182** *is followed and* **1965 (1) SCR 316, 1984 (2) SCC 91, 1954 SCR 817, 1994 (6) SCC 24** *and* **AIR 1990 SC 991** *are relied on.*

2000 (1) KLT SN 41 P 36 DB Madhu v/s Central Administrative Tribunal

Member of Scheduled Tribe converting to Christianity is still ST Constitution of India - Articles 341 and 32 – Member of Scheduled Tribe converting to Christianity – Does not cease to to be belonging to Scheduled Tribe – Scheduled Tribes are constituted not on the basis of the religion but on the basis of the communities and the religion but on the basis of the communities and the region or part of the country they inhabit – See – Scheduled Castes & the Scheduled Tribes (Prevention of Atrocities) Act, 1989, S.3(i)(x).

1999 (1) KLT 572 = 1999 (1) KLJ 413 = ILR 1999 (2) Ker 520 Rosamma Thomas v/s C.I. of Police

In the absence of duly elected members nomination by the Government is valid Once a society is registered under the Act, the management of the society through Section 29 and the rules made thereunder, is regulated by duly elected members. In the democratic set up all eligible persons are entitled to contest the election, as held, according to the provisions of the Act and Rules. In the absence of elected members belonging to the weaker sections and elected women members their nomination by the Government is the alternative dispensation envisaged as one of the policies of the Act. Therefore court cannot interfere with the policy and declare it unconstitutional violating Article 19 (1) (c) of the Constitution.

1997 (3) SCC 681 State of U.P. v/s Chheoki Employees Co-operative Society

Caste Certificate Article 341 - Caste certificate - Consideratios - Mere recitals in documents that candidate belongs to particular caste without suported by independent corrobortive material - Cannot form basis for Caste Certificate,.

AIR 1997 Ker 63 C.Sunil Krishnan v/s State of Kerala and others

Reservation to Committee Article 243 (o) - Reservation of Constituency for women - Is a bar for the court to interfere in electoral matters.

1995 (2) KLT 448 = 1995 (2) KLJ 374 = ILR 1995 (3) Ker 665 Balachandran v/s State of Kerala

If not a primary credit co-operative society, no need of reservation Section 28 A - Society engaged in purchasing and distributing wholesale items to its members and not with the object of raising funds to be lent to its members is not a primary credit co-operative society as defined under Section 2 (a) of the Act - There is no need for making reservation under Section 28 A.

Section 28 A of the Kerala Co-operative Societies Act provides for reservation for a member belonging to a scheduled caste and scheduled tribe in the committee of every primary credit society, every District Co-operative Bank Ltd and the Kerala State Co-operative Agricultural and Rural Development Bank, the Kerala State Co-operative Bank Ltd. Primary credit co-operative society has been defined in the Act under Section 2 (a) as a society other than an apex or central society which has its principal object the raising of funds to be lent to its members. Even though wholesale co-operative consumer store collects money from its members for the purpose of purchasing and sale of articles for wholesale, it cannot be said that the principal object of the said society is raising funds to be lent to its members which would attract the provisions of Section 28 A of the Act.

1995 (2) KLT 123 = 1995 (2) KLJ 250 = ILR 1995 (3) Ker 522 Thankamani v/s Returning Officer

SC or ST in one State need not be the same in another State Articles 341 and 342 - A person declared as belonging to a Scheduled Caste or a Scheduled Tribe in relation to one State cannot by that circumstance alone claim that status in another State.

The Constituton Bench has, after referring to the debates in the Constituent Assembly relating to Articles observed that while it is true that person does not cease to belong to his caste/tribe by migration he has a better and more socially free and liberal atmosphere and if sufficiently long time is spent in socially advanced areas, the inhibitions and handicaps sufered by belonging to a social disadvantageous community do not truncate his growth and the natural talents of an individual gets full scope to belossom and flourish. Realising that these are problems of social adjustment it was observed that they must be balanced in the mosic of the country's integnity that no section or community should cause detriment or discontentment to the other community, Therefore, the Scheduled Castes and Scheduled Tribes belonging to a particular are of the country must be given protection so long as and to the extent they are entitled to in order to become equals with others but those who go to other areas should ensure that they make way for the disadvantaged and disabled of that part of the community who suffer from disabilities in those areas.

1995 (1) KLT SN 47 P 33 Action Committee on Issue of Caste Certificates to S.C. and S.T. v/s Union of India

In the case of nomination by Registrar the total strength of the Committee as per bye-law can be exceeded Under Section 28A sub-clause 3(ii) the Registrar is vested with power to nominate a woman member or a member belonging to Scheduled Castes or Scheduled Tribes to the committee, if necessary by increasing the total number of members of such committee by two more members. There is no fetter imposed on the power of the Registrar to make nomination to the Board of Directors of a society. So long as there is no fetter in the Act, a fetter cannot be introduced by the bye-laws. The bye-laws no force of law and, at any rate, it cannot override the provisions of the Act or Rules. The bye-laws does not stipulate the minimum period of two years in order to become eligible for being nominated to the Board of Directors and it has nothing to do with the nomination, which is a statutory power vested exclusively on the Registrar.

1994 (2) KLT 516 Babu v/s Joint Registrar

Validity By Act 29 of 1986 the legislature reserved seat for a woman member and a seat for a member belonging to Scheduled Caste/Scheduled Tribe in primary credit society. By Act 5 of 1992 the reservation of seats have been extended to all Co-operative Banks mentioned in Section 28A - held valid.

OP No. 1812/92 A. Ali Hassan, Kilimanoor Co-operative Agricultural Rural Development Bank v/s State

Reservation Section 28 (A) - A provision for reservation made under Section 28 A of the Act can only be viewed as a wholesome, useful and commendable one, intended for the advancement of the Society in general and of the women in particular. Section 28 A is a small step in the correct and

progressive direction in off-setting the ill-effects of age-old handicaps of women. Equally devoid of substance is the attack on reservation to the Scheduled Caste. A provision for a reservation for such weaker sections of society is salutary, progressive and in consonance with the Constitutional scheme and objectives. It is to be noted that Co-operative Societies are the units of democracy at the grass-root level.

1986 KLT 1269 Gopinathan Nair v/s Senior Inspector of Co-operative Societies

The two courses of reservation open before a Society Section 28 A - No bye-law can overpower the provisions of a Statute. The State mandates the presence of a woman member and a member of the Scheduled Castes/Scheduled tribes, in the Committee of the Co-operative Society. It is open to the Society to earmark two of the existing seats in the Committee for reservation as contemplated under Section 28 A, one for the women and one for the Scheduled Castes/Scheduled Tribes. It is equally open to the Society to leave the existing procedure, and to provide additionally for the two seats, one for women and one for the Scheduled Castes/Scheduled Tribes. As to which of these courses should be adopted is a matter for the Society to decide.

1986 KLT 1269 Gopinathan Nair v/s Senior Inspector of Co-operative Societies

Provision not ultra vires Provision for reservation of seats for women and Scheduled Caste - Not ultra vires of the Article 14 of the Constitution of India.

1986 KLT 1269 Gopinathan Nair v/s Senior Inspector of Co-operative Societies

Provisions of enactment will have dominance over the rules Any election after the introduction of Section 28A must be in conformity with that section. There is no indication in the statutory scheme or otherwise which would justify overlooking the obligations of Section 28A in the election proposed for society. The provisions of enactment will have dominance over the rules which form only a subordinate part of the statute

1986 KLT 957 Narayanan v/s Maloth Service Co-operative Bank

Obligations of Section 28 A cannot be overlooked Section 28 A - Co-operative Societies Rules, 1969 (Kerala), Rule 35 - Ordinarily, after the introduction of Section 28 A and in the absence of any other compelling reasons, any election must be in conformity with that Section. The obligations of Section 28 A of the Act cannot be overlooked in the election proposed for the Society. The situation covered by Rule 35 viz. the polling being interrupted by any riot or affray or taking of the poll not being possible at such election for any sufficient cause, does not exist in the present case.

1986 KLT 957 Narayanan v/s Maloth Service Co-operative Bank

NOMINATION

Reference to the date fixed for scrutiny of nomination Representation of the People Act, 1951 - Sections 8 (3) and (4), 100 (1) (a) and 36 (2) (a) - Whether a nomination was improperly accepted shall have to be determined by reference to the date fixed for scrutiny of nomination - Facts of pendency of an appeal against conviction is irrelevant - So also a subsequent decision in appeal or revision setting aside the conviction or sentence or reduction in sentence - Decisive dates are date of election and date of scrutiny of nomination and not date of judgment in election petition. *In this judgment* **AIR 1971 SC 330** *and* **1981 (2) SCC 84** *are overruled.*

2005 (1) KLT 510 SC FB Prabhakaran v/s Jayarajan

Rejection of nomination paper on ground of printing mistake in voters list Representation of Peoples Act, 1951 - Section 33 (4) – Rejection of nomination paper on ground of printing mistake in voters' list as to the real name of the candidate – All other descriptions such as father's name, age, etc. of the candidate as given in the voters's list and in the nomination paper tallied – Hence, printing mistake in voters' list would not be a ground for rejection.

The omission of second name of candidate from the voters list was inadvertent or accidental and in any case merely technical and there was no doubt about the identity of the respondent. Further, the returning officer satisfied himself as to the identity of the respondent and, the electoral roll of the constituency, which was available with him to be seen, pointed out only an inconsequential technical variation in description. In such case, a reference may usefully be made to the maxim 'false demonstratio non nocet cum de corrore constat' which means mere false description does not vitiate, if there be sufficient certainty as to the object. In this judgment **AIR 2003 SC 2128, 1984 (3) SCC 10, AIR 1968 SC 1500, AIR 1959 SC 422, AIR 1954 SC 250** *and* **1954 (10) ELR 189 SC** *are referred to.*

2004 (1) KLT SN 88 = 2003 (8) SCC 613 = AIR 2004 SC 1067 = JT 2003 (8) SC 460 DB Harikrishna Lal v/s Babu Lal Marandi

Election Election – Nomination – Defect in nomination paper – Failure to raise any objection by a person before Returning Officer would not disentitle him to raise plea in that regard in election petition filed by him – But burden of proof would lie on election petitioner to raise necessary pleadings and if traversed, to substantiate the same by adducing necessary evidence.

We have heard the appellant, appearing in-person, who argued the case from all possible angles and Shri Sanyal, the learned senior counsel for the respondent. We are satisfied that no fault can be found with the view taken by the High Court in dismissing the election petition and consequently this appeal too is liable to be dismissed. *In this judgment* **2003 (2) SCC 176, AIR 1968 SC**

1500, 1984 (3) SCC 10, AIR 1954 SC 250 *and* **AIR 1959 SC 422** *are referred to.*
2003 (8) SCC 613 = JT 2003 (8) SC 460 DB Harikrishna Lal v/s Babu Lal Marandi

Furnishing the relevant information in the nomination paper is mandatory Representation of the People Act, 1951 - Section 36(2) – Rejection of nomination paper – Grounds for – Filling up of the proforma to the candidates for furnishing the information which the Returning Officer considers necessary and relevant for the purpose of scrutiny of nomination paper is mandatory – Powers and duties of Returning Officer.

Information is necessary and relevant for the purpose of scrutiny of the nomination paper under S.36(2), in the light of S.8 of the Act, it can well be furnished on a format provided to the candidate by the Returning Officer and it becomes his duty to furnish such information so that a Returning Officer may discharge its statutory duty to scrutinize the nomination paper effectively, properly and in consonance with the provisions of law. In the case in hand the candidate had failed to furnish such information as sought on the proforma given to him and had also failed to be present personally or through his representative at the time of scrutiny. The statutory duty/ power of Returning Officer for holding proper scrutiny of nomination paper was rendered nugatory. No scrutiny of the nomination paper could be made under S.36(2) of the Act in the light of S.8 of the Act. It certainly rendered the nomination paper suffering from defect of substantial character and the Returning Officer was within his rights in rejecting the same. *In this judgment* **1988 AIR SC 1796 Birad Mal Singhvi v/s Anand purohit** *is referred to.*

2003 (2) SCC 176 = AIR 2003 SC 2128 FB Shaligram Shrivastava v/s Naresh Singh Patel

Nomination would include subscribing the affidavit Rule 35 (3) (c) (i) & (ii) - Form of declaration to be submitted by the candidate is a part of the nomination paper and a valid submission of the nomination would include subscribing the affidavit - Rejection of the nomination paper on account of the omission to sign the affidavit is proper.

In terms of R.35(3) (c) (i) of the Co-operative Societies Rules, the affidavit has become part of the nomination prescribed or become part of the nomination prescribed or adopted by the society concerned. It is, therefore, clear that it is part of the nomination paper and a valid submission of the nomination would include subscribing to the affidavit which we have found to be part of the nomination paper. There is nothing in the Rules or the Act which prevents a society from adopting this form of nomination. As observed by one of the learned Judges in the judgment under appeal, it is open to the general body of a society to prescribe the form of nomination for election to its managing committee. No

provision in the bye-law or amendment to the bye-law of the society is needed. If so in these cases, it is clear that the appellants had omitted to sign the affidavit th at was part of the nomination paper adopted by the society and in that context, the Returning Officer was fully justified in rejecting those nominations. *In this judgemnt* **1994 (2) KLT 141** *is affirmed,* **1993 (1) KLT 548 DB** *is doubted and* **1998 (1) KLT 858** *and* **1993 (2) KLT 641** *is referred to.*

2001 (2) KLT 672 = 2001 (2) KLJ 286 = ILR 2001 (3) Ker 6 DB Alibava v/s Returning Officer

When firm commits default, all partners commit default Rule 44(1) (e) :- When firm commits a default in repaying the loan, it would certainly amount to and mean that all partners have committed default. Nomination submitted by one partners is rejected under R.44 (1) (e) proper. *In this judgment* **AIR 1966 SC 1300 Narayanappa v/s Bhaskara Krishnappu** *and* **AIR 1985 SC 1143 Deputy Commissioner of Sales Tax (Kaw) v/s M/s. K. Kelukutty** *are referred to.*

1999 (1) KLT 310 Antony v/s Returning Officer

Declaration form is an inseparable part of the nomination paper Co-operative Societies Act, 1969, (Kerala) - Section 28 – Kerala Co-operative Societies Rules (1969), Rule 35 (3) (c) (i) – Nomination – Election to Committee of Co-operative Bank – Declaration form attached to nomination paper prescribed by Society in terms of Rules – Inseparable part of the nomination paper – Cannot be said to be Unnecessary addition – Society adopted form prepared by Registrar – Rejection of nomination papers submitted without signing such declaration form – Proper. *In this judgment* **1994 (2) KLT 141 Santhosh v/s Joint Registrar** *is referred to.*

AIR 1999 Ker 23 Alibava and others v/s Returning Officer, Ponmundam Service Co-operative Bank Ltd and another

Attestation of declaration of nomination by an advocate or gazetted officer is mandatory Section 109 - Rule 35(3), (C) & (ii) - Attestation of nomination by an advocate or gazetted Officer of the solemn declaration made by the candidate is not an employ formality. It is a mandatory requirement. Hence, order of returning officer rejecting the nomination due to non-attestation by Advocate or gazetted Officer is proper. *In this judgment* **1994 (2) KLT 141 = AIR 1995 Ker 229 Santhosh v/s Joint Registrar** *and* **1989 (1) KLT 858 Damodaran v/s Joint Registrar** *are referred to*

AIR 1999 Ker 5 = 1998 (2) KLJ 724 = 1998 (2) KLT 895 Hari Babu M.D. v/s Returning Officer

Attestation is not an empty formality Attestation of the solemn declaration in the affidavit accompanying the nomination paper by an Advocate or gazetted officer is mandatory. This is not an empty formality

OP . No 19543 & 20195/98 dated 24 -10- 98 Komukutty v/s Returning Officer

Proposer and seconder need not be from the very same ward Proposer and seconder need not be from the very same ward. Rule 35 (3) (c) (ii) do not mention that the proposer and the seconder shall be from the very same ward. It only provides that they shall be the persons included in the list of the members alone. No such provision in the bye-law also - Rejection of nomination is illegal.
1998 (1) KLJ 696 = 1998 (1) KLT 704 Vasavan v/s Returning Officer

Petition against rejection of nomination paper, delay in filing Writ Petition Article 226 - Writ Petition - Delay in filing - Relief can be refused - Petition against rejection of nomination paper - Rejection found to be illegal - However, formalities for election including printing of ballot papers getting completed by that time as petition was filed after inordinate delay - Court refused any relief to petitioner.
AIR 1995 Ker 39 N.V. Antony v/s Joint Registrar of Co-operative Societies, Thrissur and others

disqualification as on the date of nomination cannot be got rid of by any act between the time of filing the nomination and time of scrutiny If a candidate is disqualified as on the date of nomination, he cannot get rid of that disqualification by any act that was undertaken between the time of filing the nomination and time of scrutiny - In Rule 44 can see the disqualification that can be attached to a candidate also. That rule inter alia, provides that no member of a society shall be eligible for being elected or appointed as member of the Co-operative Society under Section 28 if he is in default to a society or to any other society in respect of any loan or loans taken by him or loan in which he has stood surety. So a person who is not so disqualified alone can be nominated by the proposr and the seconder. Nomination is to be made by the proposer or the seconder. Qualification of the candidate should be with reference to the time of nomination. *In this judgment* **1994 (2) KLT 656 Kuriakose Babu v/s Kadavoor Service Co-operative Bank** *is overruled and* **1990 (2) KLT 816 Velunni v/s Returning Officer** *and* **AIR 1954 Mad 730 Balasubrahmanyan v/s Election Tribunal** *are relied on.*
1994 (2) KLT 943 = 1994 (2) KLJ 888 = ILR 1995 (1) Ker 425 DB Moosa v/s Joint Registrar

Name of the society not filled up in the affidavit Rule 35 (3) (e) (ii) - Rejection of nomination on the ground that the name of the society not filled up in the affidavit is an irrelevant and illegal.
1994 (2) KLT 141 = 1994 (2) KLJ 128 = 1995 AIR Ker 229 Santosh v/s Joint Registrar

Returning Officer shall not resort to hyper technicalities to reject the nomination Rule 35 (3) (e) (ii) - Place and date written out by the attestor just below the space left for the purpose cannot invalidate the attestation of the

nomination. Returning Officer has missed the substance of matter and resorted to a hyper technical reason to reject the nomination.

1994 (2) KLT 141 = 1994 (2) KLJ 128 = 1995 AIR Ker 229 Santosh v/s Joint Registrar

Attestation by a Gazetted Officer Rule 35 (3) (ii) - In the instant case, the affidavit of the fifth petitioner has been properly attested. The attesting officer has indicated that he is a Gazetted Officer and has appended his signature and entered the date of attestation. The fact that the place and date of attestation were shown just below the form of attestation and not in the blanks themselves is an inconsequential matter.

1994 (2) KLT 141 = 1994 (2) KLJ 128 = 1995 AIR Ker 229 Santosh v/s Joint Registrar

Non-mention of the date of election Rule 35 (3) (e) (ii) - Non-mention of the date of election in the space left blank for the purpose in the affidavit - Rejection of nomination is illegal.

1994 (2) KLT 141 = AIR 1995 Ker 229 Santhosh v/s Joint Registrar

Nomination is not liable to be rejected for some technical or clerical non-compliance with the requirements Rule 35 (3) (e) (ii) - The nomination is not liable to be rejected for some technical or clerical non-compliance with the requirements if the identity of the society and of the candidates, the proposer and the seconder in relation to the Society, with reference to their membership numbers are otherwise clear from the nomination paper itself. The appending of their signatures by the candidate in the declaration and of the proposer and the seconder in the nomination is of vital importance, any defect in which can render the nomination invalid. To throw out such nominations and the candidates from the electoral field by pandering to technicalities will be to strike a heavy blow at the democratic nature of the process involved and punishing them for what otherwise is an innocent mistake. This will be nothing but arbitrariness.

1994 (2) KLT 141 = 1994 (2) KLJ 128 = AIR 1995 Ker 229 Santhosh v/s Joint Registrar

Normal requirements of a valid nomination The following should be evident from the nomination paper.

(a) name of the society. (b) the identity of the candidate, the proposer and seconder as established by their description with reference to name, address and membership number, (c) the genuineness of the proposal or seconding established by the proposer and the seconder appending their signature to the nomination paper and (d) declaration of the candidate, authenticated by his signature that he is willing to stand for election.

But the nomination is liable to be rejected for some technical or clerical

non compliance with these requirements if the identities of society and of the candidates the proposer and the seconder in relation to the society, with reference to their membership numbers are otherwise clear from the nomination paper itself. The appending of their signatures by the candidate in the declaration and of the proposer and the seconder in the nomination is of vital importance. Any defect in which can render the nominations invalid. Right to contest at an election is valuable right. The attempt of the Returning Officer should be to preserve that right and not to defeat it on hyper technicalities, or immaterial defects which do not relate to the substance of the matter. The attempt should be to enable the member to contest, instead of rejecting him at the threshold on the basis of immaterial inconsequential defects or mistakes in the nomination paper.

The nomination cannot be rejected for non writing of name of society in the descriptive part of the deponent in the affidavit. The place and date written out by the attestor just below the space left for the purpose cannot invalidate the attestation or nomination as well the non-mention of the date of election in the space left blank for the purpose in the affidavit. *In this judgment* **1993 (2) KLT 641 Pankajaksha Panicker v/s Venugopalan Nair** is relied on and **1989 (1) KLT 858 Damodaran v/s Joint Registrar, 1992 (2) KLT 489 Anthrayose v/s Senior Inspector of Co-operative Societies, 1993 (1) KLT 548 Abraham v/s Returning Officer** *and* **1993 (1) KLT 644 Ravi v/s Kottayam Co-operative Urban Bank** *are referred to.*

1994 (2) KLT 141 = 1994 (2) KLJ 128 = AIR 1995 Ker 229 Santhosh v/s Joint Registrar

Rejection of nomination of reason that column relating to date of election was left blank is illegal Nomination cannot be rejected on the ground the column relating to the date of election was left blank. Rejection of nomination of reason that column relating to date of election was left blank is illegal. The date was known to every body and was not in dispute who, in fact, stated in the supporting affidavit.

1994 (2) KLJ 8 Pankajaksha Panicker v/s N. Venugopalan Nair

If the rejection of the nomination papers is patently illegal Sec.69, Rule 35 (3) (e) (ii) - Constitution, Article 226 - Where the rejection of the nomination papers is patently illegal, the High Court could interfere under Article 226 of the Constitution of India and need not always relegate the parties to an election petition. The rejection of the nominations on the ground that the column relating to date of election was left bank, is wholly unsupportable. The date was known to everybody and was not in dispute and was, in fact, stated in the supporting affidavit.

1993 (2) KLT 641 DB Pankajaksha Panicker v/s Venugopalan Nair

Enquiry during scrutiny of nomination paper is a summary enquiry Rules 35 (3) (e) (ii) - Constitution of India, Article 226 - The enquiry contemplated under Rule 35 (3) (e) (ii) of the Rules is a summary enquiry. The rule requires that the nomination papers are to be scrutinised on the day following the date fixed for the receipt of the nomination papers, which is a quasi judicial function. The Returning Officer, is not expected to embark upon an elaborate trial based on the objections raised to the nomination of candidates.

1993 (1) KLT 586 = 1993 (1) KLJ 712 Anto v/s Jackson

When rejecting nomination papers Returning Officer shall record a brief statement of his reasons Rule 35 (3) (e) (ii) - Under the Rules, the Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same as the case may be. If the nomination paper is rejected, he shall record in writing a brief statement of his reasons for such rejection. The Returning Officer is not expected to record in writing any reasons while accepting the nomination papers. It is only in cases where he decides to reject the nomination papers he shall record a brief statement of his reasons and not otherwise.

1993 (1) KLT 586 = 1993 (1) KLJ 712 Anto v/s Jackson

Proposer and seconder should belong to the area in which the members contest Proposer and the person seconding the candidate should belong to the area in which the members proposed to contest.

O.P. No. 4008 1993 B dated 6.4.1993 K.V. Marakkar v/s Assistant Registrar

Allegation of illegal acceptance of Nomination etc. Section. 69 : Allegation of illegal acceptance of Nomination and another material irregularities. Single Judge directing party to invoke the alternative remedy under Section 69 of the Co-operative Societies Act, cannnot be interfered with in Appeal.

1992 (2) KLJ 617 = 1993 (2) ILR 158 = 1992 (2) KLT 634 DB Lakshmanan v/s Roy Alexander

Rejection of nomination on ground that the name of the Society is not filled up Sec.69 - Rejection of nomination on ground that the name of the Society is not filled up by hand but seal of Society is put in arbitrary and illegal. The nomination is valid. No need to invoke remedy under Section 69 of the Act.

1992 (2) KLT 489 = 1992 (2) KLJ 491 = AIR 1993 Ker 39 DB Anthrayose v/s Senior Inspector of Co-operative Societies

Resubmission of destroyed nomination paper is only reconstruction Rule 35 (3) (e) (v) and 35 (3) (p) - When a nomination paper is destroyed or lost, submission of nomination paper thereafter by candidate could only be reconstruction of the document lost or destroyed and cannot be treated as filing a fresh nomination paper. Electoral process not required to be begun afresh again but processed from the stage at which election stopped.

1991 (2) KLT 310 = 1992 (2) KLJ 275 = 1991 (3) ILR 519 Haridas v/s Alleppy Urban Co-operative Bank Ltd

Stranger snatching the nomination paper Co-operative Societies Rules, 1969 (Kerala) - Rule 35 - During the scrutiny of nomination papers stranger snatching the nomination paper – Returning Officer stopping the election- Returning Officer is bound to continue from where he has stopped. *In this judgment* **1974 KLT 783 Mavelikara Co-operative Housing Society Ltd v/s Alleppey District Co-operative Bank** *and* **1983 KLT 995 DB Abubaker v/s Kunhavaran and others** *are relied on.*

ILR 1991 (3) Ker 519 = 1991 (2) KLJ 275 = 1991 (2) KLT 310 P.S. Haridas v/s The Alleppey Urban Co-operative Bank Ltd and others

Candidate member of the committee of two other co-operative societies Rule 35 (d) (iii) - Co-operative Societies Act, 1969, Section 28 (2) (b) - At the time when the nomination paper was filed, the petitioner was member of the committee of two other co-operative societies. The resignation submitted was accepted subsequently. Therefore, the nomination was defective since the resignation will be effective only from the date of its acceptance by the Committee.

1990 (2) KLT 816 Velunni v/s Returning Officer

If only one valid nomination paper is filed, the candidate has to be declared elected Rule 35 (3) (h) - If the nomination paper of one candidate is to be rejected, the only other person in the field is the 2nd petitioner as a candidate. The only valid nomination paper filed for election as a candidate is that of the 2nd petitioner. In terms of Rule 35 (3) (h) he has to be declared elected.

1990 (2) KLT 816 Velunni v/s Returning Officer

Validity of the nomination paper to be judged as on date of submitting nomination Validity of the nomination paper had to be judged with reference to the state of affairs as on date of submitting nomination. If one nomination paper was rejected out of two nominations filed, the other candidate has to be declared elected. *This judgment was relied in* **1994 (2) KLT 943 = 1994 (2) KLJ 888 = ILR 1995 (1) Ker 425 Moosa v/s Joint Registrar**

1990 (2) 816 Vellunni v/s Returning Officer

Rejection on the ground that there is no rubber seal of Advocate The election notification only requires that nomination to be supported by an affidavit that he was not disqualified under R. 44. The attestation by an Advocate is by virtue of his position as Advocate and not in any official capacity. Such attestation cannot be rejected on the ground that there is no rubber seal of Advocate. Since the rejection of nomination paper is illegal and opposed to common sense - attestation by an Advocate did not contain his seal can interfere under Article 226 of the Constitution.

1989 (1) KLT 858 Damodaran v/s Joint Registrar

No disqualification if the proposer and the seconder had proposed and seconded one or more other candidates too Rule 35 - The fact that a

person has got only one vote under Section 20 does not mean that he cannot propose or second more than one candidate. A candidate duly proposed and seconded by the two members of the Society would not be disqualified to be a contestant for the mere reason that the proposer and the seconder had proposed and seconded one or more other candidates too. The fact that the same proposer and the seconder had on a later occasion chosen to propose and second another candidate should not result in the invalidation of both the nominations. Therefore, the rejection of the nomination papers by the returning Officer was without jurisdiction.

1986 KLT 1315 Vijayan v/s Returning Officer

No rejection if proposer or seconder were defaulters of society Nomination cannot be rejected on the ground that proposer or seconder were defaulters of society.

1984 KLT 1043 = 1984 KLJ 839 Bhaskara Panicker v/s Co-operative Tribunal

Declaration of result As the nomination papers have been duly accepted and as the number of nomination is equal to the number of the Executive Committee, the Returning Officer will declare them to have been duly elected to the Committee in terms of Rule 35 (3) (h).

1984 KLT 850 Chandran Pillai v/s State

Question of propriety Rejection of nomination paper - Question is one of propriety of interfering with exercise of jurisdiction with orders of the Returning Officer before election is held.

1975 KLT 636 Aravindaksha Panicker v/s Perumbalam Service Co-operative Society

OBSTRUCTIONS FOR ELECTION

Returning Officer need not obtain permission of the police authorities There is no provision in the Act or the Rules which requires a Returning Officer to obtain permission of the police authorities to conduct an election polling proceedings cannot be stopped for that purpose.

1997 KLT SN 10 Achuthan v/s Returning Officer

If some of members are reported ineligible election need not be stopped Rule 35 - If some of the members are subsequently reported to be ineligible, it will not be a ground to stop the election process. It is never possible to have a cent percent correct voters list in as much as it is likely that there will be deaths and departures even after the preparation of voters list and prior to the election which may render it incorrect. But that will be no reason to postpone election.*This judgment is overruled in* **1996 (1) KLT 285 Vijaya Kumar v/s Joint Registrar.** *The case is shown under "voters list."*

1994 (2) KLT 506 = 1994 (2) KLJ 795 Kottappady Service Co-operative Bank v/s Assistant Registrar

Election process can be continued from the stage at which it was stopped Rule 35 - When polling is stopped under rule 35 (3) (p) of the Rules, the election process can be continued from the stage at which it was stopped. Even in cases not covered by Rule 35 (3) (e) (v) and Rule 35 (3) (P), it is to be noted that by virtue of the provisions contained in section 28 of the Act and Rule 35 of the Rules, it is for the managing committee to fix the date for election. It is no doubt true that there is no provision in the Act or the Rules as to what should happen if an election could not be held on the original date due to any reason not contemplated under the Rules. But that doesn't mean that the committee is powerless. The committee has certainly jurisdiction and power to fix a new date for the election if it could not be conducted on the original date fixed and the absence of any clause giving them that power will not milliate against the committee exercising such a power in a contingency where an election could not be conducted on the date originally fixed. *In this judgment* **1983 KLT 995 Abubaker v/s kunhavaran, 1984 KLT 628 Valsaraj v/s Joint Registrar, 1985 KLT 836 George v/s Joint Registrar** *and* **1991(2) KLT 310 Haridas v/s Alleppey Urban Co-operative Bank Ltd** *are referred to,* **AIR 1969 SC 430 I.T. Officer v/s Mohd. Kuhi, AIR 1970 SC 140 S.D.O. Faisabad v/s S.N. Singh, AIR 1972 SC 2563 Assistant Collector, CE v/s N.T.Co. of India Ltd** *and* **AIR 1991 SC 696 Union of India v/s Paras Laminates (p) Ltd** *are relied on and* **1974 KLT 783 Mavelikara Co-operative H.S. Ltd v/s District Co-operative Bank** *is overruled.*

ILR 1993 (1) Ker 465 = 1992 (2) KLJ 645 = 1992 (2) KLT 567 DB Madhavan Namboodiri v/s Kumaran and others

Members who are entitled to vote will have to be determined taking into account the original date of election Rule 35 (3) and 26 - If for any reason the election was adjourned, even then the subsequent election also will be for the purpose of 'said election'. Members who are entitled to vote will have to be determined taking into account the original date of election and not the adjourned date of election. Managing Committee has authority and jurisdiction to fix a new date of election not only necessary to repeat whole process as contemplated under Rule 35. Election proceedings can be continued from the stage at which stopped.

1992 (2) KLT 567 = 1992 (2) KLJ 645 = 1993 (1) ILR 465 DB Madhavan Namboodiri v/s Kammaran

Election process can be continued from the stage at which it was stopped When election is stopped under Rule 35 (3) (p) the process need not begin afresh but could proceed from the stage at which the election was stopped.

1991 (2) KLT 310 = ILR 1991 (3) Ker 519 Haridas v/s Alleppey Urban Co-operative Bank Ltd

Polling should start from where it was stopped If at any stage of polling, the proceedings for election is interrupted or obstructed as mentioned in Rule 35 (p), the Returning Officer shall have the power to stop the polling recording reasons. The election can continue, thereafter from the stage when it was stopped and there is no necessity to start a de novo election process.

1985 KLT 836 George v/s Joint Registrar

Election process can be continued from the stage at which it was stopped The committee of the society decided to conduct election by a resolution subsequently it was postponed. It is not obligatory for society to conduct election all over again with a fresh resolution under Rule 35 (1), the electoral process once interrupted can continue from the stage at which it was left off.

1984 KLT 628 = 1984 KLJ 380 Valasaraj v/s Joint Registrar

Election process can be continued from the stage at which it was stopped Election once stopped by the Returning Officer can be continued from the stage at which it was stopped - The power to stop the polling is not a power which enables him to efface what has already been done. The power of cancellation is different from power of stopping. The rule contemplates stopping because polling cannot go further on account of certain circumstances until a situation arises where the obstruction or obstacle is removed.

1983 KLT 995 Abubacker v/s Kunhavaran and others

POLLING

Absence of mark and signature on the ballot paper Conduct of Election Rules, 1961 – Rule 38 – Absence of mark and signature on the ballot paper – Where the returning officer feels satisfied that such defect has been caused by any mistake or failure on the part of the presiding officer, the ballot paper shall not be rejected merely on the ground of such defect.

The concession given by candidates or their election agents submitting to a decision arrived at by the returning officer in accordance with law may come in the way of that candidate turning around and disputing a doubtful position of law taken as resolved and conceded or accepted. In an election dispute a consensus contrary to law or a failure to discharge statutory obligation cast on an election officer which has resulted in prejudicing the result of the election, cannot ipso facto claim immunity from challenge. In the present case the returning officer has clearly failed in discharging his obligation cast by first proviso below Clauses (g) and (h) of sub-r.2 of R.56. Disagreeing with the High Court, therefore, we hold that these 824 ballot papers should have been included for the purpose of counting. *In this judgment* **1984 (1) SCC 91, 1976 (1) SCC 687, 1993 Supp 2 SCC 82, 1995 Supp 2 SCC 101, 2003 (2) KLT 472 SC** *and* **1985 (1) SCC 61** *are referred to.*

2003 (3) KLT SN 45 = 2003 (6) SCC 452 DB Jibontara Ghatowar v/s Sarbananda Sonowal

Application for recount Conduct of Election Rules, 1961 - R.63 – Application for recount under sub-rule (2) – It may be allowed to the extent to which the prayer may be genuine and reasonable – Returning Officer has statutory obligation under R.63 to dispose of the application.

The expressions 'shall decide the matter', 'may allow the application' and 'if it appears to him' employed in the language of sub-r.(3) cast an obligation on the returning officer to take a decision on the prayer for recount depending on the formation of prima facie opinion in a reasonable manner and as dictated by the facts and circumstances of a given case which would obviously defy definition or formation of any straight jacket formula. The application may be allowed to the extent to which the prayer may be genuine and reasonable. It may be rejected to the extent to which it may be found frivolous or unreasonable, In any case, a decision has to be taken. The decision has to be in writing and has to contain the reasons for the decision. There was a clear breach of R.63 in the present case.

2003 (3) KLT SN 45 = 2003 (6) SCC 452 DB Jibontara Ghatowar v/s Sarbananda SonowalElection

Returning Officer to enquire into the fact if the Presiding Officer or the polling staff had by mistake supplied the distinguishing mark stamp to voters for marking the ballot paper Representation of the People Act, 1951 - S.16(A), S.83, R.39, R.56 – Respondent No. 1 declared elected defeating appellant by 35 votes – 90 ballots casted in favour of appellant were rejected marked by stamp of distinguishing mark used by polling officer and not by stamp meant for voting – The order rejecting the 90 ballot papers is against the instructions and orders of the Election Commission of India dated 26-2-2000 which required the Returning Officer to enquire into the fact if the Presiding Officer or the polling staff had by mistake in supplying the distinguishing mark stamp to voters for marking the ballot paper, and in that case ballot papers should not be rejected – Appellant is entitled to be declared elected. *In this judgment* **1970 (2) SCC 462** *and* **1999 (8) SCC 692** *are referred to.*

2003 (2) KLT 768 = AIR 2003 SC 1302 = JT 2003 (3) SC 229 DB Hari Sankar Prasad v/s Shahid Ali Khan

Every voter has no absolute previlege regarding the secrecy of the ballot Section 115 of CPC - Secrecy of ballots of course is an important consideration of purity of elections has equal if not mere importance - It cannot be said that every voter has an absolute previlege regarding the secrecy of the ballot.

2003 (2) KLT 737 Mahendran v/s Asokan

Purity of election is more important than any other consideration Section 115 of CPC - Election sought to be set aside on various grounds including irregularities in the procedure adopted by the Returning Officer for the draw

- Purity of election is more important than any other consideration which is relevant in election law - No reason to non-suit the respondents at the threshhold.
2003 (2) KLT 268 Faizal v/s Ussainar Kunhi

Irregularities and illegalities has to be proved by the petitioner Election - Re-counting - Irregularities and illegalities in counting of votes alleged in application for re-counting - It is for the applicant (appellant) to establish his case - In absence of any evidence, held, application for re-counting cannot be allowed.
AIR 2002 SC 1291 = 2002 (3) SCC 457 DB Mahendra Pal v/s Ram Dass Malanger and others

Recount Election Law - Recount - grounds for
2001 (1) KLT 740 = 2001 (3) SCC 81 Achuthanandan v/s Francis

Allowing agents of candidates to witness inscribing of mark on ballot paper on behalf of blind or physically infirmed or illiterate voters Co-operative Societies Act, 1969, (Kerala) - Section 109 – Co-operative Societies Rules, 1969 (Kerala) Rules 35 (3) (o) and (n) - Co-operative Society election – Petition seeking a direction to allow agents of candidates to witness inscribing of mark on ballot paper on behalf of blind or physically infirmed or illiterate members of the Society – No legal right on candidates or polling agents to insist that such persons should cast their vote in their presence – Such direction as affecting secrecy in matter of casting vote cannot be given.
AIR 1999 Ker 191 K.V. Solomon v/s Returning Officer, K.V. Co-operative Society Ltd

Returning Officer is the best person to cast votes Due to the blindness or other physical infirmities or illiteracy power is given to Returning Officer to ascertain from such person in whose favour that person desires to cast vote. Therefore, there cannot be any doubt that the Returning Officer, who is expected to conduct a free and fair election would go against the wish of such persons. No other person can be entrusted with that responsibility than Returning Officer.
1999 (1) KLT 450 = 1999 (1) KLJ 305 = AIR 1999 Ker 191 Solomon v/s Returning Officer

The inclusion of the names of voters at more than one place would not render all votes as void Section 62 (3) & (4) - The mere inclusion of the names of voters at more than one place would not ipso facto render all those votes as void.

If the name of a voter is included at more than one place whether in more than one constituency, he had the right to choose as to where he may vote but this right can be exercised by him only once. The reason obviously is that every voter has one vote and he has a right to vote at more than one place, it is only then the vote of that person, wherever he has voted would be regarded as being void. *In*

this judgment **AIR 1996 SC 1842 Vikheshe Sema v/s Hokishe Sema** *is followed and* **AIR 1958 Bom 325 Ramnarain v/s Ramachandran** *and* **AIR 1965 M.P. 55 Shanti Swaroop v/s Abdul Rehman** *are referred to.*

1998 (1) KLT 645 = 1998 (1) KLJ 554 = AIR 1998 Ker 318 Vaheed v/s Jobai Silva

Steps may be taken to trace and nullify void votes Representation of Peoples Act, 1951, Section 64(4) and 94 - The exercise of extrication of void votes under Section 62(4) of the Act would not in any manner impinge on the secrecy of ballot especially when void votes are those which have to be treated as no votes at all. A void vote cast is a vote void ab initio. The void taint in the election would have to be traced to the election papers. The sphere of enquire is to the voting and not for discovering the name of the person to whom the vote was cast. That inevitably has to be found out after double voting or impersonated voting has been found out leading to the new step to trace them and nullify them.

1994 (1) KLT 887 FB SC Neelalohitadasan Nadar v/s George mascrene

Extrication of void votes would not impinge on the secrecy of ballot Sections 64 (4) and 94 - The exercise of extrication of void votes under Section 62 (4) would not in any way impinge on the secrecy of ballot especially when void votes are those which have to be treated as no votes at all -Double voting - Names of voters who voted twice specifically pleaded - Extrication of void votes - High Court can permit inspection of counter foils - Cannot be said to be a 'roving of fishing enquiry - Conduct of Election Rules, 1961 Rule 93. *In this judgment* **1980 (3) SCR 1302 Raghbir Singh Gill v/s Gurucharam Singh** *is relied on and* **1964 (6) SCR 238 Ram Sweak Yadav v/s Hussain Kidwai 1984 (1) SCR 932 Hariran v/s Hira Singh and others, 1980 (2) SCC 537 R. Narayanaswamy v/s S. Semmalai, 1970 (1) SCR 852 J.B. Singh v/s K. Bishan** *and* **AIR 1966 SC 733 Jagji Singh v/s Kartar Singh** *are referred to.*

1994 (1) KLT 887 = 1994 (2) SCC 619 Neelalohithadasan Nadar v/s George Mascrence

The secrecy of the ballot should not be violated except where a compulsive case is made out Section 69 and 70(3) - The secrecy of the ballot should not be violated except where a compulsive case is made out. Recount can be ordered only on the materials placed before the Arbitrator prior to the order. Recount cannot be justified from the results emanating from the recount of votes. The result of the recount can by no stretch of imagination be considered as a sufficient justification of the order of recount.

1993 (1) KLJ 802 DB Nalunnakkal Service Co-operative Bank v/s P.V. John and others

Share certificate not necessary to exercise franchise Rule 35 - The question will be whether a person who does not bring the share certificate at the

time when he exercises his franchise, could be prevented from casting his vote, and thereby be denied his franchise. The right to franchise is granted by the Act, and it is the procedure indicated by the Act that has to be followed, and it should not be open either to the paid-Secretary or to the General Body to impose a condition which might result in the denial of right to franchise to a voter. *In this judgment* **1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies** *is affirmed and* **O.P. No. 741 / 89** is overruled

1992 (1) KLT 418 ILR 1992 (1) Ker 769 = 1992 (1) KLJ 321 DB A. Abdul Latheef and another v/s Joint Registrar of Co-operative Societies and others

Casting vote need not be a second vote Polling of votes - Even if the president has not voted earlier, the casting vote need not be a second vote. The President is Justified in casting his vote.

1992 (1) KLT 275 Karunakaran Nair v/s State of Kerala

Vote marked with the instrument supplied by the officers is valid Conduct of Election Rules, 1961. Rule 56(2)(b) - The object of the provision is to prevent malpractices and not to reject an intention clearly and bonafide expressed by an elector because the object of the election is to decide on the free will of the electors as to who should govern them. If the intention is clear from marking the ballot it cannot be rejected. When the marking is not by any instrument brought by the elector or obtained by him from some other source, but by one bonafide supplied by the polling staff, though on the basis of mistake, and the ballot paper is also one supplied correctly for that purpose, ballot must be held as valid because whatever be the other provisions regarding user of instrument for making, what rule 56(2)(b) provides is only for rejection of ballot paper bearing a mark mode "otherwise than with the instrument supplied for that puspors". The provision for rejection has to be stricty applied. The wording is not "instrument that had to be supplied" but only "instrument supplied for the purpose". Therefore when it is admitted or proved beyond doubt that the marking was validy made with the instrument supplied to the purpose and the intention is clear, the ballot cannot be rejected for the simple reason that the polling staff committed a bonafide mistake which did not in any way prevent the intention of the elector being made known.

1988 (2) KLT 663 Raman v/s Balan Vaidhyar

CO-OPTION

The power of co-option under the Bye-laws cannot be exercised in a manner different from what is prescribed in Rule 38 (5) Co-operative Societies Act, 1969, (Kerala) - Sections 28 (5) and 110(2) & Co-operative Societies Rules, 1969, R.38 (5) – Bye-law providing that if any vacancy arises unexpectedly among elected directors, the remaining members can co-opt – Co-option

cannot be execised in a manner different from what is prescribed in R.38 (5) read with S.28 (5).

For ascertaining the real intention of the Legislature, the Court may consider, inter alia, the nature and the design of the statute, and the consequences which would flow from construing it one way or the other, the impact of other provisions whereby the necessity of complying with the provisions in question is avoided the circumstances that the statute provides for a contingency of the non-compliance with the provision, the fact that the non-compliance with the provisions is or is not visited by some penalty, the serious or trivial consequences that flow therefrom, and above all whether the object of the legislation will be defeated or furthered. Above being the position, the conclusion in Padmanabhan's case **1995 (1) KLT 630** to the effect that notwithstanding the inconsistency of Clause 36A of Bye-laws to Rule 38 (5), the former shall prevail as it is not inconsistent with any provisions in the Act is indefensible. Therefore, the power of co-option under Clause 36A of the Bye-laws cannot be exercised in a manner different from what is prescribed in Rule 38 (5) of the Rules, along with Section 28(5) of the Act. *In this judgment* **1995 (1) KLT 630 = 1995 (1) KLJ 492 = ILR 1995 (2) Ker 785** *is overruled. See also* **1995 (1) KLT 486**

2000 (2) KLT 138 = AIR 2000 Ker 264 Joint Registrar of Co-operative Societies v/s Syed

In terms of the bye-laws of a society registered prior to the commencement of the Act a member can be co-opted Where a society was registered prior to the commencement of the present Act, the bye-laws of the bank so far as they are not inconsistent with the provisions of the Kerala Act will continue in force until they are altered or rescinded. In terms of the bye-laws a member can be co-opted. *In this judgment* **ILR 1995 (2) Ker 631 =1995 (1) KLT 486** *is reversed.*

1995 (1) KLJ 492 = ILR 1995 (2) Ker 785 = 1995 (1) KLT 630 Padmanabhan v/s Joint Registrar

There is no provision for co-option Rule 38 - There is no provision in the Rules for co-option. It is the spirit of the Act and the Rules that all those who represent membership of the Board or committee are required necessarily to be elected members. Even the filling in of casual vacancies has to be done by application of the election process.

1995 (1) KLT 486 = 1995 (1) KLJ 492 = ILR 1995 (2) Ker 631 Padmanabhan v/s Joint Registrar

Co-option in case of vacancy due to death is not violative of Section 28 Bye-law providing for co-option in case of vacancy due to death not violative of Section 28. In the absence of any such provision and in the face of the specific provision made for the filling up of vacancies caused by resignation by the process

of election, it could not be said that bye-law 17 of the bye-laws of the society is ultra vires of Section 28 of the Act. Exigencies have to be met by resort to provisions of the bye-laws and it has to be reasonably construed that in the absence of any provision to the contrary contained in the Act or the rules, filling up of vacancies to the extent which has not been specifically provided for in the Act and the rules has to be done in accordance with the provisions contained in the bye-laws of the society.
1984 KLT 325 = 1984 KLN 176 = 1984 KLJ 247 Joint Registrar v/s Ponnani P.C.C.M. Society Ltd

Bye-law will have no operation to fill a casual vacancy except in case of a vacancy by death Co-operative Societies Act, 1969 (Kerala) - Section 28 - Co-option to vacancies arising on account of death of an existing member of the committee – There is no repugnancy in the continued operation of byelaw - Bye-law 17 will have no operation to fill by a casual vacancy but it does not follow that it will not apply in case of a vacancy by death. *In this judgement* **1984 KLT 325 = 1984 KLN 176 = 1984 KLJ 247 Joint Registrar of Co-operative Societies v/s Ponnani PCC Marketing Societies Ltd** *is confirmed.*
1984 KLT 21 = 1983 KLN SN 61 = ILR 1984 (1) Ker 701 = 1984 KLJ 65 Ponnani P.C.C. Marketing Societies Ltd v/s Joint Registrar of Co-operative Societies

ELECTION PETITIONS

Corrupt practice in election Representation of the People Act, 1951 - Section 123 (3) - Appeal to vote or refrain from voting on ground of religion - Appeal must be on ground of religion - Mere appeal simpliciter to vote or refrain from voting for a candidate, even if made by religious leader, would not constitute corrupt practice under Section 123 (3).
2005 (3) KLT SC SN 27 C 30 FB Harmohinder Singh Pradhan v/s Ranjeet Singh Talwandi

Presentation of Election Petition Representation of the People Act, 1951 - Section 81- Election petition can be presented before the Judge, who may then send it for scrutiny - At the time of presentation not necessary that Judge may be sitting in open Court - Election petition presented after Court hours on last day of limitation but before midnight will be deemed to be presented within limitation.
2005 (3) KLT SN 11 C 17 SC FB Rajkumar Yadhav v/s Samir Kumar Mahaseth

Dismissing the appeal at the admission stage Representation of the People Act, 1951 - Section 116 A - Though an appeal under Section 116 A is preferred as of right, yet the inherent power of Supreme Court to summarily dismiss the appeal at the admission stage is not taken away - Civil Procedure Code, 1908, Order XLI, Rule 11 (1). *In this judgment* **1973 (3) SCC 746, 1976 Tax LR 1740, 1970 (3) SCC 650, 1983 (4) SCC 223** *and* **1989 (2) SCC 754** *are*

referred to.

2005 (2) KLT 418 SC DB Bolin Chetia v/s Jogadish Bhuyan

Consolidated petition not a new petition Multi State Cooperative Societies Act, 2002 – Section 85 (1) (c), Section 85 (3), Section 84 – Challenge to the election of Directors of the Society – Applicability of period of limitation under Section 75 (1) (d) – Consolidated petition filed on 30-4-2003 would not be taken to be a new petition presented before the Central Registrar to declare it to be barred by limitation on the basis of its date presentation.

2004 (8) SCC 312 FB N. Balaji v/s Virendra Singh and others

The statute does not refer to any automatic cessation of membership S.69 , Rule 35 A – Election to Aided school Teachers co-operative society – Dispute regarding the preparation of electoral roll – The issue comes within the process of election and therefore the remedy available might be election petition under S.69. The possible dispute of facts also would render an examination of the petitioners' case virtually beyond the jurisdictional limits of this Court. The Kerala Co-operative Societies Act & Rules are specific, When they say that once a person gets membership, though there might be subsequent disqualification, notice has nevertheless to be issued to the persons concerned and only after hearing their views it may be possible to remove such members from the rolls. The statute does not refer to any automatic cessation of membership, the relevant provisions being Rules 16(3) and 16(4). *In this judgment* **AIR 1986 SC 103, 2000 (8) SCC 46** *and* **2001 (8) SCC 509** *are referred to.*

2003 (3) KLT SN 125 James Varghese v/s The Aided School Teachers Co-operative Society Ltd

Re-count of the votes Conduct of Election Rules, 1961 - R.63, R.93, R.56A, Form 20 – Election petition – Re-count of the votes – Election petitioner must demonstrate leading satisfactory evidence that there was serious flaw in counting procedure which materially affected result of the election – Petition is based on misleading facts – Discrepancies and contradictions found in facts pleaded – Held, election petition is liable to be dismissed – See – Representation of the People Act, 1951 – S.100,S.83.

2003 (1) SCC 390 = AIR 2003 SC 304 DB Mahender Pratap v/s Krishnan Pal and Others

After declaration of result, no application for re-count can be entertained Election – Panchayat elections – Election of Sarpanch – Re-counting of votes – After declaration of result of election, no application for re-count can be entertained – Only remedy available to the aggrieved party is to file an election petition under S.122 – The court or tribunal is bound to consider the plea and where a case is made out, it may direct re-count depending upon evidence led by the parties.

We, hold that the ratio laid down in Ram Rati's case is not correct. In this view of the matter, the decision of the High Court cannot be sustained and is, therefore, set aside. As the Writ Petition was disposed off only on the basis of Ram Rati's case, the High Court has not dealt with other points raised in the Writ Petition. We therefore, restore the Writ Petition to the file of the High Court. The High Court shall decide the same on merits. *In this judgment* **1997 AIR SC 3072 Smt. Ram Rati v/s Saroj Devi and others** *is referred to.*

2003 (1) SCC 108 = AIR 2003 SC 320 FB Sohan Lal v/s Babu Gandhi and others

Remedy is arbitration Section 69 (2) (c) - Objection to the election to the Managing Committee of a Co-operative Bank - Remedy is under Section 69 (2) (c) - No reason to invoke the writ jurisdiction under Article 226 of Constitution of India.

It is not the function of this Court to assume for itself what is the legitimate function of the authority under the provisions of the Kerala Co-operative Societies Act. Article 226 of the Constitution of India is an extraordinary remedy and, like all extraordinary remedies, liable to lose its efficacy if invoked too often and for frivolous reasons. It is the bounden duty of this Court to maintain the cutting edge of its jurisdiction under Article 226 of the Constitution of India by restricting its invocation to occasion where injustice cannot be otherwise remedied.

2002 (3) KLT SN 93 DB Andoorkonam Service Co-operative Bank v/s Co-operative Election Commission

Scope and Jurisdiction of High Court Election - Election trial - Jurisdiction of High Court, scope-Challenge to validity of statutory provision or vires of any law- Held, High Court may adjudicate upon questions raised in such challenge if (i) such adjudication becomes necessary for the purpose of declaring an election void under S.100 of RPA Act, 1951 or for purpose of making an order in conformity with Ss.98 and 99 of RPA Act, 1951 or for purpose of making an order in conformity with Ss.98 and 99 of RPA, 1951; (ii) pleadings in election have raised a specific case requiring examination of validity or vires of any law; and (iii) case is unconnected to matters covered under Art 329 (a) of Constitution- On facts held, appellant's challenge to vires of Citizenship Act, 1955 could not be entertained as no foundation of material facts was laid in pleadings enabling Court to examine it; further held matter could not be gone into without impleading Central Govt. Representation of the People Act, 1951, Ss. 80-A,100, 98,99.

2001 (8) SCC 233 FB Hari Shanker Jain v/s Sonia Gandhi

An incomplete petition is liable to be dismissed Election petition - Incomplete petition - whether petition satisfied requirement of Sections 81 and 83 of RP Act - Original of the video cassette mentioned and verified in the

schedule not filed along with the petition although copies thereof filed for service on the respondents to the petition - On facts held, the Schedule was an integral part of the petition-Since the original video cassette had not been filed along with the copies thereof, the petition was incomplete and in non-compliance with Ss.81 and 83 RP Act - Hence petition liable to be dismissed under S.86 - Representation of the People Act, 1951, Ss. 81 83 and 86.

2001 (7) SCC 98 FB Mulayam Singh Yadav v/s Dharam Pal Yadav and others

In election petition person whose nomination is withdrawn also is a candidate Election - Election petition - parties to the petition - "Candidate" - Who is - Election petition alleging commission of corrupt practices by the returned candidate as well as his election agent - Election agent was initially duly nominated as a candidate but later he withdrew his candidature and became the agent - Held, by virtue of his nomination as a candidate, he would continue to be a "candidate" within the meaning of S.82(b) r/w S.79(b) of RP Act despite his subsequent withdrawal of candidature and becoming agent- Therefore, election petitioner must join him as respondent in the petition to do so, High Court has no option but to dismiss the petition under S.86(1).

2001 (3) SCC 594 FB Patangrao Kadam v/s Prithviraj Sayajirao Yadav Deshmuk and others

Grounds for declaring election void Election - Grounds for declaring election void - Whether improper acceptance of any nomination materailly affected result of the election so far as it concerned the returned candidate - Proof - Burden of proof on election petitioner who questionss validity of the election- It has to be established by positive evidence that the wasted votes would have been distributed in such a manner between the contesting candidates which would have brought about defeat of the returned candidate- Trend or pattern of voting should be pleaded and shown in support of such distribution of votes.

2001 (3) SCC 290 FB Tek Chand v/s Dile Ram

Election officer is not a necessary party in election petition Non joinder of necessary parties - Election officer related to the election challenged in an Election Petition is not a necessary party to the proceedings - Allegation that after final electoral roll had attained total finally, it was illegally tampered with- No justification to reject the Election Petition as not maintainable.

It is obvious that the Electoral Registration Officer or any other Election Officer related to the election challenged in an Election Petition is not a necessary party to the proceedings. This is not a case where the petitioner alleges that eligible persons were deleted from the final electoral roll or that ineligible persons found their place in the final electoral roll; but a case where the one and the only allegation is that after the final electoral roll had attained total finality on 23.4.2001, against all known principles and requirements of law, the electoral

roll was illegally tampered with resulting in improper reception of some votes and improper refusal or rejection of valid votes against the provisions of the Act and the Rules. On the pleadings available in the case, there is absolutely no justification to reject the election petition as not maintainable. *In this judgment* **AIR 1985 SC 1233** *and* **AIR 2000 SC 3000** *are distinguished and* **AIR 1982 SC 983** *and* **1999 Supp. (2) SCC 624** *is referred to.*

2001 (3) KLT SN 115 P 88 Rajan v/s Sahir

Election Petition Panchayat election - Interim order passed by Munsiff's Court - Only revision under S.115 will lie before the High Court - See - Civil P.C. 1908, S.115.

2001 (3) KLT 155 = 2001 (2) KLJ 280 Bindu Vijayakumaran Nair v/s Bindu Rajappan

Framing of issues Election trial - Framing of issues - Object and importance of - Each material proposition affirmed by one party and denied by the other should constitute a distinct issue - Evidence has to be adduced only in respect of the controversies covered by the issues and pleadings-Where several allegations of corrupt practice made, framing of one sweeping issue was not justified - Case may be remanded for retrial if proper issue not framed and prejudice is shown to have caused as a result of non-framing of issue-Civil Procedure Code, 1908, Or.14.

2001 (2) SCC 652 FB Makhan Lal Bangal v/s Manas Bhunia and others

For common prayer of all the petitioners, fee of Rs. 500/- is sufficient Co-operative Societies Rules, 1969 (Kerala), Rule 67 (7) – Election dispute – If there is only common prayer for all the petitioners, they need not pay Rs. 500/- each.

On a reference to R.67 of the Kerala Co-operative Societies Rules it is seen that the fee is prescribed in relation to a dispute and not in relation to the person who raises the dispute. Only if the fee is related to the person or persons who raise the dispute there would arise the question of separate fee being paid by the persons who joined the motion before the Arbitrator for resolution of a dispute. Since Court fee payable is for deciding a dispute, the question that has to be considered is whether the petitioners herein have raised a dispute or have raised several disputes. So considering, it is clear that the dispute that is sought to be raised is regarding the validity of the election held on 25.6.1998. Whether that dispute is raised by one of the members or several of the members would make no difference in terms of R.67 of the Kerala Co-operative Societies Rules. *In this judgment* **2000 (2) KLT 598** *is affirmed and* **1998 (2) KLT 729, AIR 1974 SC 1185** *and* **AIR 1998 Kar 99** *are referred to.*

2000 (2) KLT 946 = 2000 (2) KLJ 49 = AIR 2000 Ker 336 DB Soman v/s Pushparajan

When results to be declared according to law laid down in reference before High Court Co-operative Societies Act, 1969, (Kerala) - Section 69 – Alternative remedy – Election –Petitioner approaching High Court by way of petition before election – High Court referring important question of law to Division Bench and election was conducted as directed by High Court – Results to be declared according to law laid down in reference – Plea before Division Bench that remedy of election petition was provided under Act and Writ petition would not be maintainable – Not maintainable as there would be no question to be decided in election petition after answering reference – In any event, before declaration of result finally, no election petition can be filed as it will be premature.
AIR 2000 Ker 7 DB President, Tiruvalla East Co-operative Bank Ltd v/s Returning Officer, Tiruvalla East Co-operative Bank Ltd

Plea that fresh election should be conducted after setting aside entire election process is not tenable Co-operative Societies Act, 1969, (Kerala) - Section 69 – Election – Dispute as to right of members to vote – Petition filed before High Court – By interim order said members were permitted to vote and their votes polled in separate ballot boxes and counted separately – On final hearing right of said members to vote upheld and their votes were to be counted – Plea that in circumstances fresh election should be conducted after setting aside entire election process – Such a stand is not tenable.
AIR 2000 Ker 7 DB President, Tiruvalla East Co-operative Bank Ltd v/s Returning Officer, Tiruvalla East Co-operative Bank Ltd

Results of the election ordered to be declared subject to final orders Co-operative Societies Rules, 1969 (Kerala), Rule 35 (3) (s) – Results of the election ordered to be declared subject to final orders to be passed in the case – President and Vice President elected – Later Court finding election of two members bad – Fresh election need not be held – Earlier declaration cannot be said to be not a valid one.

The Court has not declared the functioning of the Committee as illegal. If we peruse the Rules, it only provides for one declaration after final counting. According to us, merely because subsequently the court found that the election of two of the members was not valid, it does not infringe upon the validity of the earlier Committee constituted. The learned single Judge took the view that the two new members could not take part in the meeting of the election of President and Vice President and hence those two office bearers should be elected again. We don't agree with the above view. It was because of the pendency of the litigation that such things happened. We take the view that there is no necessity for conducting an election of President again, merely because the earlier constitution of the Committee was on the basis of the interim order of this Court. *In this judgment* **1999 (2) KLT 826** *is referred to.*
1999 (3) KLT 680 = ILR 2000 (1) Ker 716 DB Chacko v/s Jaya Varma

Court in election petition cannot entertain question of insolvency Constitution of India - Article 191 (1) (c) – The High Court while dealing with an Election Petition has no jurisdiction to decide a question as to whether a person is an undischarged insolvent or not.

The scheme of the provisions of the Insolvency Act, the exclusive jurisdiction to deal with any question relating to insolvency could be adjudicated upon only by the court constituted under that Act. In such a situation, it would not be possible to hold that the High Court had, while dealing with an election petition, jurisdiction to decide a question as to whether a person is an undischarged insolvent or not. Admittedly, in this case, there is no such adjudication. Hence the High Court could not declare the appellant to be an "undischarged insolvent". As long as the Constitution of the R.P. Act indicated in clear terms as to what its policy is, it would not be open to a court to interpret such a provision by trying to find out what the intent could be by ignoring the actual expressions used. Therefore, the supposed scheme of the provisions would not afford sufficient guidance to take the view that the expression "undischarged insolvent" should be understood as meaning an insolvent who is a person who is in impecunious circumstances as is unable to repay the debt. *In this judgment* **1986 (2) SCR 823** *and* **JT 1988 (1) SC 350** *are relied on and* **1985 All Weekly Cases 682** *is referred to.*

1999 (3) KLT 487 SC FB Thampanoor Ravi v/s Charupara Ravi

Order rejecting the correction of name in the ballot paper Constitution of India - Articles 226 & 329(b) – Representation of Peoples Act – S.33(4) – Order rejecting the correction of name in the ballot paper – Held – Writ petition is not maintainable against the order of the Returning Officer, as the election process is already started.

1999 (2) KLJ 681 DB Mullappally Ramachandran v/s District Collector

Omission to subscribe the signature below the reliefs is only a curable defect Representation of People Act, 1951 - Sections 83 and 86 (5) – Omission to subscribe the signature below the reliefs claimed in an election petition is only a curable defect which is permitted under O.6, R.17 CPC within the limitations contained in S.86(5) – Civil P.C. 1908, O.6, R.17.

It is clear that S.86(5) of the Act cannot be read in isolation of the provisions of the Civil Procedure Code with regard to the amendment of pleadings. It is clear that in this case since the petitioner has subscribed his signature at the bottom of all the pages in pages 1 to 13 of the pleadings and in page 14 wherein the reliefs are claimed and verified and has admitted the authorship of the allegations made in the election petition by presenting the same in person before the Court. If the defect is not cured, the Court is competent to dismiss the plaint or petition. Therefore, in this case, if the defect in the pleadings found to be

curable defect, the election petition cannot be dismissed due to that defect without giving an opportunity to the petitioner to cure the defect. *In this judgment* **AIR 1995 SC 2284** *and* **1991 SC 1557** *are followed,* **AIR 1957 SC 444, 1958 SC 687, 1965 SC 1243, 1969 SC 1201, 1976 SC 1599** *and* **1984 SC 95** *are distinguished and* **AIR 1965 SC 815, 1969 SC 677, 1980 SC 303, 1982 SC 983, 1955 Raj 91, 1967 SC 526, 1948 Mad 369, 1956 Hyd 133, 1961 Bom 292, 1960 SC 368, 1977 HP 28, 1978 Ori 167** *and* **1987 SC 1577** *are referred to.*

1999 (2) KLT 377 K. Muraleedharan v/s V.V. Raghavan

It is fatal not to contain a prayer for declaring the election of the respondent void Sections 80 and 81 - If the Election Petition do not contain a prayer for declaring the election of the respondent void, it is fatal to the maintainability of the Election Petition.

1997 (1) KLT 623 Meethian v/s Poulose

Court cannot compare the signatures without the help of an expert Section 62 - Alleged casting of votes twice - Court cannot compare the signatures without the help of an expert.

The learned Judge could have summoned documents containing admitted signatures for comparison by an expert and also by comparing them himself. Instead the learned Judge undertook the hazardous task of comparing hundreds of disputed signatures which are not having individual characteristics to set aside the election of the candidates, the appellant herein. The learned Judge in our view was not right either in brushing aside the principles laid down by the Court in **State v/s Pali Ran AIR 1979 SC 14** on the ground that it was not a criminal case or taking upon himself the hazardous task of adjudicating upon the genuineness and authenticity of the signatures in question even without the assistance of a skilled and trained person whose service could have been easily availed of. Annulling the verdict of popular will is as much serious mater of grave concern to the society as enforcement of laws pertaining to criminal offences, if not more.

1996 (1) KLT 466 = 1996 (2) SCC 704 DB Bharathan v/s Sudhakaran

Court not to interfere with the finding of fact Election Law - Appeal to Supreme Court - As a rule of prudence, the Court not to interfere with the finding of fact by making its own assessment of evidence.

It may be indicated here that although an appeal lies to this Court from a decision of the High Court in an election petition filed under the Representation Act and although in such appeal this Court can interfere with the finding of fact by making its own assessment of evidence, as a rule of prudence this Court has shown disinclination to interfere with the finding of fact unless it can be established by cogent, convincing and unimpeachable evidence that the finding of fact by the high Court is unjustified and against the weight of the evidence.

1995 (2) KLT SN 36 P 28 DB SC K. S. Chatterji v/s G. Chatterjee

Column relating to date of election was left blank The rejection of nomination paper on the ground that column relating to date of election was left blank is not proper. Where the rejection of nomination paper is patently illegal, the High Court can interfere under Article 226 of the Constitution of India and need not relegate parties to an election petition.

1994 (2) KLJ 8 Pankajaksha Panicker v/s Venugopalan Nair

Discretion has to be exercised on well established principles Sections 70 (3) and 69 - Matters to be considered while passing interim orders in an election petition under Section 69 - Since the Registrar's order is discretionary, the discretion has to be exercised on well established principles. Where the Registrar or Arbitrator is called upon to prevent the elected body form taking office, he is expected to consider variety of factors and act with great circumspection.

1993 KLT (1) 721 = 1993 (1) KLJ 884 Satheendra Kumar v/s Joint Registrar

Advantage derived from breach of the rules is a prima facie reason for the election to be vitiated Sections 70(3) ans 69 - Election of Board of Directors due to the advantage derived from breach of the rules. Held that prima facie election was vitiated.

1993 (1) KLT 721 = 1993 (1) KLJ 884 Satheendrakumar v/s Joint Registrar

Name of Bank was not written by hand on the nomination paper Rejection of the nomination paper on the ground that name of Bank was not written by hand, but a seal was affixed. The nomination paper otherwise in compliance with provisions of the Act. Rejection is arbitrary. Party need not driven to proceedings under Section 69 of the Act. High Court can interfere in such patent cases. *In this judgment* **1984 KLT 477** *is overruled.*

AIR 1993 Ker 39 Anthrayose P.K. v/s Senior Inspector of Co-operative Societies

"Alternative remedy is a bar" is a rule of discretion Whether alternative remedy a bar to interfere in an election proceeding in a co-operative society when there is gross violation of law - It is true that the court will not ordinarily entertain an original petition at the intermediate state in an election process. But this is a rule of discretion and not one of absolute bar in law.

1990 (1) KLJ 644 = ILR 1990 (3) Ker 707 = 1990 (1) KLT 695 V.R. Krishnan Ezhuthachan v/s Assistant Registrar

Voters' list with the name of an unqualified or disqualified person would not upset the election in its entirety Rule 35 - An election of member may be set aside on diverse grounds. Whether the entire election to Board is vitiated or not will depend upon the nature of the violations of law as ultimately established. The disqualification of an individual member would not by itself invalidate the entire election. The mere fact that the voters' list includes the name of an unqualified or disqualified person would not upset the election in its entirety.

This is a general fundamental concept in relation to elections.

1986 KLT 1213 Venugopalan v/s Co-operative Tribunal

Court should see that proper functioning of the democratic institution is not interfered with Even though statutory remedy is available by way of election petition -Interference under Article 226 - Scope and ambit. A Co-operative society is also a socially relevant democratic institution functioning at grass root level. In that matter the court should be anxious to ensure that proper functioning of the democratic institution is not interfered with. These considerations have to be persuaded to exercise the discretion under Article 226 of the Constitution.

1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies

The right itself is a creature of the statute Where there is no challenge to the validity of the electoral roll or the appointment of the Returning Officer and it is confined only to the rejection of nomination it is a matter where the parties should be directed to invoke the remedy available to them under the Act for, the right itself is a creature of the statute

1984 KLT 477 V. K. S. Sangam v/s Joint Registrar

On flagrant violation of the rules Court can interfere If election is conducted in violation of Rule 26 and the parties have approached the court at the earliest opportunity complaining there is patent and flagrant violation court can interfere.

1983 KLT 1038 = AIR 1984 Ker 26 = 1983 KLN 641 Govindan v/s Deputy Registrar

A writ can be filed against an interim order of Registrar granting stay Election petition - Registrar of Co-operative Societies passing an interim order of stay. There is no right of appeal provided by the statute against an order of stay passed by the Registrar. The provision in the Act for filling an appeal against the final order passed by the Registrar cannot be said to be an alternative remedy.

1978 KLT SN 46 Kuttappan v/s Registrar

Alternative remedy is not a bar Question raised in writ petition is fundamental and relating to jurisdiction. alternative remedy is not a bar.

1974 KLT 783 Mavellikkara Co-operative Housing Society v/s District Co-operative Bank

The Registrar has power to set aside an election of a member and to declare another as duly elected Travancore Cochin Co-operative Societies Act, 1951 - Section 60 - The Registrar has, under Section 60, jurisdiction to entertain a petition for setting aside an election of a member to the Board of Directors and to declare another as duly elected. *In this judgment* **AIR 1954 Mad 103 Madhava Rao v/s Surya Rao** *and* **AIR 1962 Mad 169 Lakshmiah v/s**

S.P.T.G.M. Society Ltd *are followed and* **AIR 1962 MP 265 Gokul Prasad v/s Laxmansingh** *is not followed.*

ILR 1965 (1) Ker 666 = 1965 KLJ 301 = 1965 KLT 447 Vasu Pillai v/s Registrar of Co-operative Societies and others

Charge of corrupt practice should be sufficiently clear and precise Petition for setting aside election on the ground of corrupt practice – Charge of corrupt practice to be treated as a quasi-Criminal Charge – Principles involved – Allegations should be sufficiently clear and precise. *In this judgment* **AIR 1959 MP 226 Jamuna Prasad v/s Sri. Ramnivas, AIR 1959 Pun 240 Ram Dial v/s Sant Lal** *and* **AIR 1957 SC 444 Harish Chandra v/s Triloki Singh** *are relied on.*

ILR 1961 (1) Ker 460 = 1961 KLJ 288 DB Gopala Kurup v/s Samual Paul and others

ACT

[*S**28B. State Co-operative Election Commission :-** (1) Notwithstanding anything contained in this Act or in the Rules the Government shall by notification in the Gazette, constitute a State Co-operative Election Commission for the superintendence, directions and control of the conduct of elections to the committees of all credit, apex, central and federal societies in the State. The Government may by notification in the Gazette, entrust the superintendence, directions and control of the conduct of election to the committee of any other society or any other class of societies to the State Co-operative Election Commission.

Provided that in respect of societies not coming under this sub-section, the provisions contained in this Act and the Rules made thereunder shall be followed for the conduct of elections to the committees thereof

(2) The State Co-operative Election Commission shall be an officer not below the rank of secretary to Government appointed by the Government for a period of five years. The terms and conditions of appointment of the State Co-operative Election Commission shall be such, as may be prescribed.

(3) The State Co-operative Election Commission shall, in consultation with the Government, designate or nominate officers and employees of the Government to assist the Commission in the conduct of election to the committee of such society.

(4) Subject to the provisions of this Act, the Government may, by rule, make provision with respect to all matters relating to, or in connection with elections to the committee of a society.]

RULES

[**R**35B. State Co-operative Election Commission :-** (1) The State Co-operative Election Commission shall be appointed by Government by transfer or deputation.

(2) The State Co-operative Election Commission shall have the power of superintendence, direction and control of the conduct of election to the committees of all Credit, Apex, Central and Federal Societies.

R35C. Terms and Conditions of Service of the State Co-operative Election Commission :- (1) The State Co-operative Election Commission shall be eligible for salary which he would have drawn from time to time had he continued in

*Inserted by Act 1 of 2000
**Inserted by SRO 55/2001

that service to which he belonged before such appointed or a higher salary that the Government may decide from time to time.

(2) The State Co-operative Election Commission who was in the service of the State or Central Government may be granted during his tenure of office, leave in accordance with the rules for the time being applicable to the service to which he belonged.

(3) The power to grant or refuse leave to the State Co-operative Election Commission and to revoke or curtail leave granted to him, shall vest in the Government.

(4) The State Co-operative Election Commission shall be entitled to traveling allowance and medical facilities as admissible under the rules for the time being to Officers of the All India Service serving under State Government and conveyance facilities as admissible to a Secretary to Government.]

CASE LAWS

Powers and functions of the State Co-operative Election Commission Co–operative Societies Act, 1969 (Kerala) – Section 20 – Circular was issued by the State Co-operative Election Commission directing that the case of Preliminary/final voters' list published on or after 4-5-2002, the election shall be conducted only after including all the eligible members of the Society in the Voters' list.

The state Co-operative Election Commission was constituted under Section 28B of the Act. According to Section 28B of the Act, notwithstanding anything contained in the Act or in the Rules, the Government shall by notification in the Gazette constitute a State Co-operative Election Commission for superintendence, directions and control of the conduct of elections to the committees of all credit, apex, central and federal societies in the State. Hence the powers and functions of the State Co-operative Election Commission included "the superintendence, directions and control of the conduct of elections" to the Committees of the Societies. Therefore, it is the duty of the State Cooperative Election Commission to ensure that election to the Committees of the Societies are conducted strictly in accordance with the provisions of the Act,

2004 (1) KLT 1026 = ILR 2004 (2) Ker 413 = AIR 2004 Ker 329 DB Rajendran v/s State Cooperative Election Commission

Constitution of the election commission Constitution of India - Article 226 – For avoiding complaints Constitution of an independent body in the nature of election commission for conducting election to various co-operative societies in the State.

In very many cases we find that allegations are made against the Returning Officer stating that they are siding with one political party which is in power, In order to avoid those allegations, Government may think constituting an independent body in the nature of election commission for conducting election to various co-operative societies in the State so that rooms for such complaints will be avoided.

1999 (1) KLJ 689 Gopalakrishna Pillai and another v/s Returning Officer and others

RULES

R44. Disqualification of membership of committee:- (1) [*No member of the society shall be eligible for being elected, or appointed as a member of the committee of the society under Section 28 if he] :-

(a) is disqualified under Section 28; or

(b) is a n ear relative of a paid employee of the society; or

(c) (i) is in default to the society or to any other society in respect of any loan or loans taken by him or loan in which he had stood surety, for such period, as is prescribed in the bye-laws of the society concerned or in any case for a period exceeding three months or is a defaulter to the society or to any other society; or

(ii) has been sentenced for any offence other than an offence of a political charter or an offence not involving moral delinquency such sentence not having been reversed or offence pardoned and a period of three years has not elapsed from the date of expiration of the sentence; or

[**xxx]

(d) is interested directly or indirectly in any contract made with the society or in any sale or purchase made by the society privately or in any auction or in any transaction of the society other than investment and borrowing involving financial interest, if the contract or transaction is subsisting or if the contract, sale, purchase or transaction be not completed; or

(e) is employed otherwise than in an honorary capacity as legal adviser or as legal practitioner on behalf of the society or against the society which is a member of the former society; or

(f) is a paid employee of the society or of any other society;

Provided that the Registrar may by general or special order exempt any society or any person from the operation of this clause for such period to be specified by him in the order of exemption; or

[#Provided further that this clause shall not apply in the case of an Employee's Co-operative Society.]

(g) is of unsound mind [##x x x] or a leper; or is a minor or a nominal, or an associate member; [###x x x].

[#Provided that the disqualification of leprosy shall not apply to the members of Committees of Societies formed for the rehabilitation of lepers; or]

(h) is an applicant to be adjudicated a bankrupt or an insolvent or an uncertified

*Substituted by SRO 510/69

**Omitted by SRO 142/2004

Inserted by SRO 510/69

##Omitted by SRO 764/2000

###Omitted by SRO 444/70

bankrupt or an undischarged insolvent; or

(i) is carrying the same business as is being carried on by the society; or

(j) is disqualified under any other provisions in the bye-laws of the society; or

(k) [*was a member of the Committee] which has been superseded and a period of one year has not elapsed from the date of supersession; or

(l) has been surcharged under section 68.

[**(m) xxxx]

(2) A member of the committee shall cease to hold his office as such, if he-

(a) becomes disqualified under sub-rule (1), provided that where a member ceases to hold his office as such by reason of having been sentenced for any offence, he shall be restored to office for such portion of the period for which he was elected or appointed as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision and any person elected or appointed in the vacancy in the interim period shall on such restoration vacate office; [#xxx]

[#Provided further that the disqualification under sub-clause (i) of clause (c) of sub-rule (1) shall be deemed to be accrued only after expiry of a period of one month from the date of receipt by the member concerned of a notice from the society demanding him to clear off the defaulted amount specified therein and he fails to remit or cause to remit the amount within the said period; or]

(b) cease to be a member of the society; or

[##Provided that this clause shall not apply to a person nominated by the Government or any other authority specified in this behalf by the Government under sub-section (1) of Section 31 of the Act or by Government or Registrar under sub-section (1) of Section 28 of the Act] [###or by Government under Sub-section 28 (A) of the Act]

(c) is subsequently seen to be disqualified under sub-rule (1) on the date of election itself.

[#Provided that the disqualification under sub-clause (i) of clause (c) of sub-rule (1) shall be deemed to be accrued only after the expiry of a period of one month from the date of receipt by the member concerned of a notice from the society demanding him to clear off the defaulted amount specified therein and he fails to remit or cause to remit the amount within the said period.]

(3) If any person is or becomes disqualified to be member of the committee, the Registrar may on his own motion or on a representation made to him by any member of the society or by its Financing Bank by an order in writing declare that he

*Substituted by SRO 510/69 and corrected vide Notn. dt. 23.11.70 in K.G. 4 dt. 27.1.1970

**Omitted by SRO 16/81

omitted and added by SRO 1125/89

##Added by SRO 581/76

###Inserted by SRO 380/2000

shall cease to be a member of the committee of the society concerned from the date of such disqualification. Before passing an order, the Registrar shall give such person an opportunity to state his objections, if any, against the proposed action and if the person wishes to be heard he shall be given an opportunity to be heard.

[***Explanation :-** For the purpose of clause (b) of the sub-rule (i), the near relations shall be the following, namely:-

1.	Husband	2.	Wife	3.	Son
4.	Daughter	5.	Brother	6.	Sister
7.	Father	8.	Mother	9.	Uncle (Maternal)
10.	Father-in-law	11.	Mother-in-law	12.	Son-in-law
13.	Daughter-in-law	14.	Step-son	15.	Step-daughter
16.	Wife's brother	17.	Wife's sister	18.	Husband's brother
19.	Husband's sister				

Note:- Brother and sister will not include step-brother and step-sister half-brother and half-sister.]

[**xxx]

CASE LAWS

The cases under this head are classified as shown below.

1. Disqualification general matters
2. Disqualification under Rule 44 (1) (a)
3. Disqualification under Rule 44 (1) (b)
4. Disqualification under Rule 44 (1) (c) (i)
5. Disqualification under Rule 44 (1) (c) (ii)
6. Disqualification under Rule 44 (1) (d)
7. Disqualification under Rule 44 (1) (f)
8. Disqualification under Rule 44 (1) (i)
9. Disqualification under Rule 44 (1) (j)
10. Disqualification under Rule 44 (1) (k)
11. Disqualification under Rule 44 (1) (m)
12. Disqualification under Rule 44 (1)
13. Disqualification under Rule 44 (2)
14. Disqualification under Rule 44 (3)
15. Disqualification under Rule 44 (4), (5) and (6)

DISQUALIFICATION GENERAL MATTERS

A person against whom a preliminary finding has been made is disqualified only against becoming an office bearer Rule 44 (1), (2) & (4)

*Substituted by SRO 1610/88

**Omitted by SRO 142/2004

- A person against whom a preliminary finding has been made by the Commission will not be disqualified for continuing as a member of the Committee - Disqualification is only against becoming an office bearer.

If the rule making authority had intended disqualification of members of the committee also, necessarily it would have simply provided that 'such persons shall be deemed to have been disqualified to be or continuing as the member of the committee' as is employed by the rule making authority in sub-rule (2) of Rule. 44, because if a person is disqualified from being a member of the committee naturally he will become disqualified to be an office bearer of the Committee also. The rule making authority did not thus provide that a person against whom a preliminary finding has been made by the Commission shall be deemed to have been disqualified to be or for continuing as member of the committee. So, it did not intend such a position or situation. Instead the rule making authority envisaged disqualification only for office bearers like President. Vice President, Chairman, Vice Chairman, Treasurer, Secretary or Manager or any such office bearer by whatever name he is designated. Such disqualification will not extend to disable continuance of a person as member of the committee. *In this judgment* **JT 1997 (6) SC 607 The Institute of Chartered Accountants of India v/s M/s Price water house & another AIR 1989 SC 1019 M/s Siddeshwari Cotton Mills (P) Ltd v/s Union of India and Another** *and* **1991 (2) SC 637 Maharashtra State Financial Corporation v/s Jaycee Drugs & Pharmaceuticals Pvt Ltd & others** *are relied on.*

1998 (1) KLT 213 Sivadasan Nair v/s State of Kerala

Registrar is empowered to declare a member disqualified Co-operative Societies Rules, 1969 (Kerala) - Rule 44 (1) and (3) - Registrar is empowered to declare a member disqualified either on his own motion or on representation. *In this judgment* **1901 (2) KB 177 R.V. Roberts, 1983 IQB 770 Shaw v/s Reckitt, 1960 (1) QB 142 In re Shuter, 1980 (1) SCC 258 State (Delhi Administration) v/s I.K. Nangia** *and* **AIR 1987 SC 1073 Ambica Quarry Works v/s State of Gujarat** *are relied on.*

ILR 1995 (2) Ker 790 = 1995 (1) KLJ 498 = 1995 (1) KLT 674 DB Dr. Mary Thomas v/s Jerome Thomas and others

The power of the Registrar to declare that a person is disqualified to be a member of the committee Use of expression "may" in the context in which it is used it cannot be interpreted as merely conferring a discretion but is suggestive of a compelling duty cast on the Registrar to make the declaration.

1995 (1) KLT 674 = ILR 1995 (2) Ker 790 = 1995 (1) KLJ 498 Mary Thomas v/s Jerome Thomas

To disqualify an order has to be passed by the Registrar A declaration after following the procedure prescribed by sub-rule (3) of Rule 44 is required for the person ceasing to be a member of the Managing Committee. Such a declaration is

imperative and till such declaration is made, the person shall continue to be a member of the committee. The person against whom proceedings are initiated can participate in the meeting to consider a no confidence motion.

1994 (2) KLT 974 = 1994 (2) KLJ 754 Rajagopalan v/s Baby Alex

Disqualification as on the date of nomination Rule 35 - If a candidate is disqualified as on the date of nomination, he cannot get rid of that disqualification by any act that was undertaken between the time of filing the nomination and time of scrutiny. *In this judgment* **1994 (2) KLT 656 Kuriakose Babu v/s Kadavoor Service Co-operative Bank** *is overruled and* **1990 (2) KLT 816 Velunni v/s Returning Officer** *and* **AIR 1954 Mad 730 Balasubrahmanyan v/s Election Tribunal** *are relied on.*

1994 (2) KLT 943 = ILR 1995 (1) Ker 425 = 1994 (2) KLJ 888 Moosa v/s Joint Registrar

Elected member can be in default even subsequent to his election Rule 44 (1) and (2) - Disqualification - Member incurring disqualification in Rule 44 (1) not entitled to hold office of member of Committee since elected member can be in default even subsequent to his election. Non repayment of loan for three months fixed by Rules is disqualification.

1987 (1) KLT 26 Vasudevan v/s State of Kerala and others

Default can be not only a default that existed prior to the election but also a continuing default Disqualification mentioned in Rule 44 (1) is not the pre-existing disqualification but the disqualification that come into existence subsequent to election - Default can be not only a default that existed prior to the election but also a continuing default after the election. *In this judgment* **1983 KLT 88 = AIR 1983 Ker 96 Thankappan v/s Deputy Registrar** *is distinguished.*

1983 KLT 640 = 1983 KLJ 345 = 1983 KLN 379 Madana Mohan Kartha v/s Elamkulam Service Co-operative Bank *See also* **1988 (1) KLT 190**

The grounds of disqualification The grounds of disqualification prescribed by sub-rule (1) apply to election or appointment of a member as a member of the Committee of a society, in other words they deal with the election or appointment of members who are subject to pre-existing disqualification. Sub-rule (2) of Rule 44 as its opening word state, prescribe the effect of supervening disqualification or a disqualification that is discovered or noticed subsequent to election or appointment. That is further made clear by the words "becomes disqualified" in clause (a) ceased to be a member in clause (b) and "is subsequently seen to be disqualified under sub-rule (1) on the date of election itself"' in clause (c) of sub-rule (2). This is so despite the fact that clause (2) (a) attracts the disqualifications prescribed by sub-rule (1)

1979 KLT 818 Mathew v/s Deputy Registrar

DISQUALIFICATION UNDER RULE 44 (1) (a)

Disqualification of a nominated member Disqualification contained in Section 28 (2) attaches not only to an elected member but also to a nominated member, if a person who is already a nominated member of a society is nominated again to a society of same type, the second nomination is bad ab initio.

1981 KLT SN 57 Augustin v/s Deputy Director of Co-operative Societies

The disqualification contained in Section 28 (2) of the Act is not exhaustive Rule 44 (1) Validity - The disqualification contained in Section 28 (2) of the Act is not exhaustive - Rule 44 is meant to supplement the provisions of Section 28 and does not run counter to it and hence valid.

AIR 1974 Ker 115 Gopinathan Nair v/s Housing Co-operative Society Ltd

DISQUALIFICATION UNDER RULE 44 (1) (b)

Family meaning of Words and phrases - 'Family' meaning of.

In its ordinary and primary sense, the term 'Family' signifies the collective body of persons living in one house or under one head or manager or one domestic government. In its restricted sense. 'Family' would include only parents and their children. It may include even grandchildren and all the person of the same blood, living together . In its broader sense, it may include person who are not connected by blood depending upon the context in which the word is used. There is a consensus among the High Courts in India that the word "Family" is a word of great flexibility and is capable of different meanings.

1997 (1) KLT SN 72 P 55 SC DB K.V. Muthu v/s Angamuthu Ammal

Foster Child A 'Foster Child' need not be the real legitimate child of the person who brings him up. He is essentially the child of another person but is nursed, reared and brought up by another person as his own son. 'Foster Son' is a son who is not the real son or direct descendant of a person after his marriage.

1997 (1) KLT SN 72 P 55 SC DB K.V. Muthu v/s Angamuthu Ammal

Son - meaning of "Son" as understood in common parlance means a natural son born to a person after marriage. It is the direct blood relationship which is the essence of the term in which 'Son' is usually understood emphasis being on legitimacy- In legal parlance, however, 'Son' has a little wider connotation. It may include not only the nature son but son's son, namely, the grand child, and where the personal law permits adoption, it also include an adopted son. In the ancient Hindu Law, twelve sons are mentioned by the truth-seeking Sages. The term "Son" itself is a flexible term and may not be limited to the direct descendant. Its true meaning, will depend upon the context in which it is used. Even illegitimate son may be treated as legitimate, as for example, the son referred to in Section 16 of Hindu Marriage Act, as originally enacted.

1997 (1) KLT SN 72 P 55 SC DB K.V. Muthu v/s Angamuthu Ammal

Brother's wife Rule 44 (1) (b) and (3) - Explanation - 'Brother's wife' is not categorised as a near relative even though "Wife's brother and wife's sisters' have been categorised as a near relatives, and so no disqualification is attracted.
1994 (3) ILR SN 26 P 22 = 1994 (2) KLT 738 Abdul Jaleel and another v/s The Joint Registrar and others

DISQUALIFICATION UNDER RULE 44 (1) (c)(i)

Defaulter only if a decree has been obtained against Co-operative Societies Rules, 1969 (Kerala) – Rule 2 (e) – Definition of "defaulter" – A person can be said to be a defaulter only if a decree has been obtained against him for recovery of money.

The materials on record show that all the ingredients of R.44 (1) (c) (i) read with Rule 44 (2) (c) and the Proviso are satisfied in this case. Hence the finding of the statutory authorities that the appellant's case came within the mischief of Rule 44 (1) (c) (i) read with Rule 44 (2) (c) and the proviso is correct. *In this judgment* **1998 (2) KLT 729** *is referred to.*
2004 (1) KLT 407 = ILR 2004 (1) Ker 361 DB Surendran Nair v/s State of Kerala

Disqualification due to default in repaying the loan Cooperative Societies Rules, 1969 (Kerala) - Rule 44 (2) (c), Rule 2 (d), Rule 2 (e) – Election – Disqualification of a member due to default in repaying the loan – Held, defaulter is not entitled to contend that the Bank could have realized the amount due to it in accordance with law – Disqualification is attracted not only when a member of a particular society is in default to that society but also when he is in default to another society of which is not a member.

The question is whether the appellant was 'in default' or was a 'defaulter' as defined under the Rules at the relevant time. As already stated, the appellant was in default to the Bank on the date of election and hence disqualified under Rule 44 (2) (c).The disqualification is attracted not only when a member of a particular society is in default to that society but also when he is in default to another society of which he is not a member. There is no stipulation in the Rule that to attract the disqualification, he must be in default to a society of which he is a member. *In this judgment* **1994 (2) KLJ 754** *is held obiter.*
2004 (1) KLT 407 = ILR 2004 (1) Ker 361 DB Surendran Nair v/s State of Kerala

Default in making the payments to the apex society R.44(1) – Election to the apex society from members of the primary society – Rejection of nomination of the ground of default in making the payments to the apex society in respect of N.C.D.C. loans – Held, such default cannot be a disqualification especially when some of the instalments are yet to fall due.

The disqualification contemplated under R.44(1)(c) would apply to defaults committed by the society in respect of loan or loans taken by such society or loan or loans in respect of which society stood as surety and it did not take in any other liability due from the society, When there is a decree against the society or a person then only he or the society would become a defaulter as defined under R.2(e) of the Rules. There was no case for the apex society that the societies or the petitioners who field the nominations were defaulters. There was absolutely no case that the petitioners were in default in repaying any loan obtained by them or that they were sureties in respect of any loan which the principal debtor had defaulted. *In this judgment* **2002 (3) KLT SN 93 P 68, 1994 (2) KLJ 8** *and* **AIR 1993 Ker 39** *are referred to.*

2003 (3) KLT 908 = ILR 2003 (3) Ker 135 Saseendran v/s The Kerala State Co-operative Election Commission

Default in making payments to the Apex Society Rule 44 – Election to the Managing Committee – Rejection of nomination on the ground that societies were in default in making payments to the Apex Society and as such disqualified to be members of the committee- Disqualification contemplated under R.44(1)(c) would apply to defaults committed by the society in respect of loan taken by such society or loan in respect of which society stood as surety and it did not take in any other liability due from the society – Default in payment of N.C.D.C. loans – Primary Societies cannot be said to be in default – Writ is maintainable challenging order of Returning Officer.

The disqualification contemplated under R.44(1)(c) would apply to defaults committed by the society in respect of loan or loans taken by such society or loan or loans in respect of which society stood as surety and it did not take in any other liability due from the society. A writ under Art. 226 would lie challenging the order of the Returning Officer rejecting the nomination. Existence of an alternate remedy is not always a bar for approaching this Court under Art. 226 of the Constitution of India. As a general principle a writ may not lie when an order was passed in an effective alternate remedy. But when there is gross violation of the provisions of law and the order appears to be prima facie arbitrary and illegal. This Court can interfere with the order under Art. 226 of the Constitution of India. *In this judgment* **2002 (3) KLT SN 93** *is referred to.*

2003 (2) KLT 806 Lordan v/s Registrar, Fisheries Directorate

Member in default admits liability and requests the society to proceed against the security is a defaulter Rule 44 - Member in default admits liability and requests the society to proceed against the security, realise the dues and pay back the balance - is a defaulter.

As per Rule 44 (1) (c), no person is eligible to be a member of the committee of a society in case he is in default to any society. Evidently, the petitioner is in default. May be he is not a defaulter. For attracting the disqualification under Rule 44 (1) (c) of the Rules, a member need only be in default. *In this*

judgment **1981 KLT 868** *is referred to.*

2002 (3) KLT 268 Surendran Nair v/s State of Kerala

When firm commits a default all partners have committed default Co-operative Societies Rules, 1969 (Kerala), Rule 44 (1) (e) – Default in payment of loan by partnership firm – One of the partners submitting nomination for election – Rejection of nomination under R.44(1)(e) is proper.

The liability in the case of partnership is one of personal unlike in the case of a limited company. So, naturally it follows when a firm commits a default in repaying the loan, it would certainly amount to and mean that all partners have committed default. It cannot be said that only after the creditor proceeding against the properties of the firm and if the amounts realized out of such sale are not sufficient, that the partners could be said to have committed default. *In this judgment* **AIR 1966 SC 1300 Narayanappa v/s Bhaskara Krishnappu** *and* **AIR 1985 SC 1143 Deputy Commissioner of Sales Tax (Kaw) v/s M/s. K. Kelukutty** *are referred to.*

1999 (1) KLT 310 = 1999 (1) KLJ 290 Antony v/s Returning Officer

To reject a nomination under R 44 (1) (c) (i) no demand notice necessary Whether notice is necessary to reject the nomination of a candidate who is in default to the loan availed from the society or any other society being the principal debtor. To reject a nomination of a candidate under R 44 (1) (c) (i) no notice demanding him to pay loan amount is not required. As per subclause (i) of clause (c) of sub rule (i) of Rule 44, no member of the society shall be eligible for being elected, or appointed as member of the committee under Section 28. The two provisions added under sub rule (2) and (2) (c) by SRO 1125/89 is to give a reasonable opportunity to committee member to clear off the defaulted amount by serving a notice from the concerned society to pay the amount within a month's time; it is made clear in the explanatory note to amendment. These two provisions has no application to sub R (1) of Rule 44.

OP No. 15515/99 *dated* **7.7.1999 Hameed Kutty V/s Returning officer**

Rejection of the nomination of the surety as a defaulter, without giving notice of the default, is illegal Rule 44 (1) (c) - Rejection of the nomination of the surety on the ground that he was a defaulter, without giving him notice of the default, is illegal.

The meaning of the word 'default' is failure or defect or unable to do something which one is duty bound. The defaulters as per dictionary meaning is one who fails to settle an ordinary debt. The definition of the word default of as pet the said Rule is 'failure on the part of any person, to repay to the financing bank or to any other society a loan or any other amount due to it within the time fixed for repayment." Admittedly, no loan amount is due from the petitioner. The loan had been availed of by the principal debtor. As the society can of course demand from the petitioner, being a guarantee or surety, the amount due from the principal debtor, that will be only other amount due" mentioned in the said definition clause. Before it became due, the

petitioner has to be notified that such an amounts is due from him. Therefore, before styling the petitioner as a defaulter, he shall be notified that some amount is due from him. *In this judgment* **1988 (1) KLT 190 Abdual Rasheed v/s State of Kerala** *is relied on and* **1993 (1) KLT 644 Ravi v/s Kottayam Co-operative Urban Bank Ltd** *and* **1993 (1) KLT 218 Narayanan Pillai v/s Joint Registrar** *are referred to.*
1998 (2) KLT 789 = 1998 (2) KLJ 490 Kumaran v/s Returning Officer

Burden of proof is on those who allege disqualification Rule 44 (2) (a) - Alleged default by sureties - Letter has to be sent by registered post acknowledgment due since it would be possible to ascertain as to when they received the notices - Burden of proof is on those who allege disqualification.

Disqualification under Rule 44 (1) (c) (i) shall be deemed to be accrued only after expiry of one month from the date of receipt by the member concerned of a notice from the society. When the surety denies the receipt of a notice under the second denies the receipt of a notice under the second proviso to Rule 44 (2) (a), burden is on the petitioners who allege disqualification to establish that surety has received notice on a particular date and even after the expiry of 30 days from that date, surety failed to clear-off the defaulted amount. *In this judgment* **1993 (1) KLT 644 Ravi v/s Kottayam Co-operative Urban Bank Ltd, 1979 KLT 528 Thankappan v/s Co-operative Tribunal** *and* **1988 (2) KLT 837 Naramganam Service Co-operative Society v/s Radhakrishnan Nair** *are referred to.*
1998 (2) KLT 665 Salim v/s Joint Registrar

Only if the surety has notice of the default, he can be disqualified Disqualification for a member to stand for election, petitioner standing surety for principal debtors still in arrears only if the surety has notice of the default he is liable to be secure disqualification.
1998 (1) KLT 789 = 1998 (2) KLJ 490 T.K. Kumaran v/s Returning Officer

Disqualification accrues only after the expiry of the period of one month from the date of receipt of demand notice Rule 44 (1) (c) & (2) - Mere default for three months is not sufficient - Disqualification accrues only after the expiry of the period of one month from the date of receipt of a notice from the society demanding him to clear off the defaulted amount and he fails to do so.
1997 (2) KLT SN 1 P 2 James v/s Joint Registrar

Rule 44 (1) (c) (i) has two parts The first part relates to defaults in respect of any loan taken by a member of the society or any loan in which he has stood surety. The second part deals with defaulters of the society or any other society. The difference in the language of the two parts of clause (c) is significant. The first part deals with cases where the member is in default to the society, while the second part deals with defaulters to the society, Rule 2 (d) applies to the first part, and is attracted only if default is in respect of a loan taken from the society or in respect of which the member is surety. The second part deals with defaulter as defined in Rule 2(e), that is a person

against whom a decree has been obtained. Difference in the language of the two parts of Clause (c) is significant.

1994 (2) KLT 974 = 1994 (2) KLJ 754 = ILR 1995 (1) Ker 360 Rajagopalan v/s Baby Alex

It is sufficient if the arrears are cleared on the date of scrutiny Rule 44 (1) (c) (i) : When the member of the Society has cleared the dues before the scrutiny of nomination the rejection of his nomination paper on the ground he is in default to the society is legally not sustainable. It is sufficient if the arrears are cleared on the date of scrutiny of nomination. *This judgment is overruled in* **1994 (2) KLT 943 Moosa v/s Joint Registrar**

ILR 1994 (3) Ker SN 16 = 1994 (2) KLT 656 Kuriakose Baby v/s Kudavoor Service Co-operative Bank Ltd and another

Even if the debt of the principal debtor remained undischarged the surety cannot be held to be a defaulter Rule 44 (1) (c) - The Petitioner incurs no liability to pay the debt until his principal debtor fails to discharge the debt. In this case it is nobody's case that the principal debtor failed to pay his debt and therefore the petitioner's liability arose. Therefore, even if the debt of the principal debtor remained undischarged the petitioner cannot be held to be a defaulter.

1993 (1) KLJ 538 = 1993 (1) KLT 644 P N Ravi v/s Kottayam Co-operative Urban Bank and others

Subscriber becomes a debtor for the prized amount paid to him Prized subscriber executing bond - Provision for payment in lump sum on default - Subscriber becomes a debtor for the prized amount paid to him - Foreman can realize entire future instalment on default-Contract act, 1872, S.74. *In this judgment* **198 KLT 197 = AIR 1983 Ker 1783 Janardhana Mallan v/s Gangadharan** *is held to be not good law and* **1974 KLY 806 = AIR 1975 Ker 47 Achuthan v/s State Bank of Travancore, 1987 (1) KLT 753 = AIR 1987 SC 1257 Subbaramasastri v/s K.S. Raghavan** *and* **1990 (1) KLT 866 Mar Aprem v/s Narendranath** *are relied on.*

1994 (2) KLT 353 = 1994 (2) KLJ 296 John v/s Oriental Kuries Ltd

Guarantor to principal debtor when can be disqualified The guarantor does not incur disqualification unless the creditor informs him of the fact and demanded payment.

1993 (1) KLT 644 = 1993 (1) KLJ 538 Ravi v/s Kottayam Co-operative Urban Bank

Notice under the proviso to Rule 44 (2) (a) cannot have any application to Rule 44 (1) (c) (i) Whether notice contemplated under the proviso to Rule 44 (2) (a) is mandatory - In a case where a member of the society seeks election to become a member of the Managing Committee. A member of the committee may become disqualified under sub-rule (1) (c) (i). But the proviso to sub-rule (2) (a) makes the position abundantly clear that the disqualification under sub-clause (i) of clause (c) of sub-rule (1) shall be deemed to be accrued only after expiry of a period of one month

from the date of receipt by the member concerned of a notice from the society demanding him to clear off the defaulted amount specified therein and if he fails to remit or cause to remit the amount within the said period, as the notice contemplated under the proviso to sub-rule (2) (a) of Rule 44 cannot have any application to sub-rule (1) (c) (i). Under sub-rule (1) (c) (i) no notice is required to disqualify who seeks to be elected to the managing committee. Hence rejection of nomination paper is justified.

1993 (1) KLT 218 = 1993 (1) KLJ 440 Narayanan Pillai v/s Joint Registrar

Notice and failure to pay amount are necessary A person can be treated as a defaulter only if the notice contemplated is issued and there is failure to pay the amount. Order passed disqualifying certain directors held illegal since there was no evidence of such notice being served on them before the proceedings were initiated.

1992 (2) KLT 308 Justus Daniel v/s State

Disqualification accrues only after one month from the date of receipt of a demand notice Mere default for three months is not sufficient to disqualify a member of the committee. Disqualification accrues only after the expiry of the period of one month from the date of receipt of a notice from the society demanding him to clear off the defaulted amount and he fails to do so.

1992 (2) KLT SN 2 James v/s Joint Registrar

Distinction between Rule 44 (1) (c) and 44 (2) Under Rule 44 (1) (c), default must continue to subsist at the time the action is initiated to disqualify the member of the Managing Committee. Such a condition need not exist in the case of supervenient disqualification where disqualification is automatically incurred on the expiry of the period prescribed by Rule 44 (1) (c) and the elected member automatically becomes disqualified to be a member of the managing committee.

1990 (2) KLT SN 18 Gangadharan v/s Joint Registrar

A person declared elected can be sought to be disqualified by proceeding Even if an election is not challenged in an election dispute, and member is declared elected and he is sought to be disqualified by proceeding taken under Rule 44 (1), he could be disqualified under the rule when the member incurred the disqualification on the date of issuance of notice under Rule 44 (1). A member even if he is a surety and a loanee can be disqualified of a debt when arises or not discharged the debt after informing the default and issuing a demand notice. If such notice is not issued the member in the capacity as a surety and a loanee was not a defaulter on that account.

1988 (1) KLT 190 = 1988 (1) KLJ 143 = AIR 1988 Ker 289 Abdul Rasheed v/s State of Kerala

Disqualification exists when action is initiated Action initiated after discharging the liability against a member of the Board of Directors - For the purpose of the rule the disqualification exists when action is initiated.

1988 (1) KLJ 143 = 1988 (1) KLT 190 DB K. Abdul Rasheed v/s State

Disqualification exists if the loan is paid after due date Action for disqualification was initiated at a time when the petitioner has paid the amount due under the loan, though the payment was made after the due date. The petitioner should be considered as a person who incurred disqualification

1987 (1) KLT 26 Vasudevan v/s State of Kerala

Subsequent disqualification valid if the person was a defaulter on the date of the election Rule 44 (1) (c) - The relevance of a continuing default on the part of a member while adjudging his initial eligibility itself to be elected as a member of the Committee is clearly evident. When concededly the petitioner was a defaulter on the date of the election, and consequently ineligible to be a member of the Committee in terms of Rule 44 (1) (c), the declaration of disqualification to be a member of the committee by the authorities is legal and perfectly correct.

1986 KLT 809 Abdul Rasheed v/s State of Kerala

Disqualified person ceases to be a member of the Board Co-operative Societies Rules, 1969 (Kerala) - Rule 44 (1) (c) (i) read with Rule 44 (2) (a) - Disqualification of members of the Board – On disqualification is incurred the person concerned will cease to be a member of the Board. *In this judgment* **1979 KLT 818 Mathew v/s Deputy Registrar, Co-operative Societies, 1972 KLT 366 Kunhammed Koyi v/s Premalatha** *and* **1978 KLT 887 Thomen Ittycherianthu v/s State of Kerala** *are referred to and* **1983 KLT 88 Thankappan v/s Deputy Registrar** *is approved.*

ILR 1983 (2) Ker 601 = 1983 KLN 380 = 1983 KLJ 345 = 1983 KLT 640 DB Madanamohan Kartha v/s Ernakulam Service Co-operative Bank Ltd and another

Member requesting the Society to adjust the loan against amount due to him is not a defaulter Co-operative Societies Rules, 1969 (Kerala) - Rule 44 (1) (c) (1) and 44 (2) - 'Defaulter' – meaning and scope – Member to whom more amount is due from the Society than the amount of loan taken by him requesting the Society to adjust the loan against that amount- cannot be held to be a defaulter. *In this judgment* **AIR 1945 PC 85 Trinidad L.A. and Co. v/s I.T. Commissioner** *is relied on.*

ILR 1981 (2) Ker 173 = 1981 KLT 868 Kora Kurian v/s Deputy Registrar of Co-operative Societies and others

Nomination of person who is a defaulter no bar Co-operative Societies Rules, 1969 (Kerala) - Rule 44 - Nomination of person who is a defaulter no bar. The disqualification under rule 44 (1) operates only against "appointment as a member of the Committee" under Section 28 and not against nomination under Section 31. *In this judgment* **AIR 1976 AP 340 FB K. Suryanarayana v/s West Godavari Co-operative Sugars Ltd** *is distinguished.*

ILR 1981 (2) Ker 467 = 1981 KLN 150 = 1981 KLT 335 = AIR 1982 Ker 84 The Edavanna Service Co-operative Bank Ltd v/s P.V. Shoukathali and others

Committee Member committing default for three months is disqualified Co-operative Societies Rules, 1969 (Kerala) - Rule 44 (2) (a) - Committee Member of Society committing default for three months is disqualified from continuing as committee member.

ILR 1980 (1) Ker 228 DB Mathew P.M. v/s The Deputy Registrar of Co-operative Societies, Ernakulam

Disqualification is attracted only if at the time when the proceedings are initiated the member is a defaulter Action under Rule 44 (1) (c) would be justified only if the member concerned "is in default" to the society or to any other society in respect of a loan or loans taken by him or loan in which he had stood surety, for such period as is prescribed in the bye-laws or in any case for period exceeding three months or "is a defaulterer to the society or to any other society". In employing the present tense by using the word "is" the rule making authority has clearly indicated its intention that the disqualification will be attracted only if at the time when the proceedings under the rule are initiated the person actually occupies the character of a defaulter. The mere fact that at some time in the past a member might have been in default to the society or to any other society in respect of any loan, will not afford a valid ground for taking action under Rule 44 unless it is further shown that the state of each default actually continued to exist as on the date when the proceeding under the rule are initiated.

1978 KLT 887 Thommen v/s State of Kerala

Disqualification is attracted for default continued for more than three months Disqualification for membership of Committee - Attracted only if default continued for more than three months unless bye-laws provide lesser period.

AIR 1974 Ker 92 M.C. Abdullah Kutty v/s The Deputy Registrar of Co-operative Societies

DISQUALIFICATION UNDER RULE 44 (1) (c)(ii)

Moral turpitude Words & Phrases-'Moral turpitude'-Service.

"Moral turpitude" is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, deprived or having any connection showing depravity.

1997 (2) KLT SN 19 P 18 SC DB Pawan Kumar v/s State of Haryana

Moral turpitude is anything that is done contrary to justice, honesty, vileness, or depravity in the private and social duties Words and Phrases-'Moral turpitude' meaning of.

It has reference largely to moral character and state of mind and known or intentinal violation of statutes may or may not show moral turpitude. It is a vague term, and its meaning depends to some extent on the state of public morals; it is anything that

is done contrary to justice, honesty, vileness, or depravity in the private and social duties which man owes to his fellow man, or to socieyt in general, contrary to the accepted and customary rule of right and duty between man and man; it implies something immoral in itself, regardless of fact whether it is punishable by law.

1996 (2) KLT 482 = 1996 (2) KLJ 257 = ILR 1996 (3) Ker 553 Saseendran Nair v/s General Manager

The game of cards, even if played with money does not attract disqualification Rule 44 - A conviction by a criminal court is not sufficient to invite consequence of rendering a member disqualified unless he has been sentenced for an offence involving "moral delinquency". The offence must be of such a type as would bring the offender to disrepute among the right thinking members of the Society. The game of cards, even if played with money and in whatever, form, does not normally involve and transgression. On the facts of this case one cannot take the view that the offences for which the petitioners were convicted involved moral delinquency or moral turpitude.*In this judgment* **AIR 1959 All 71 Baleshwar Singh v/s District Magistrate, AIR 1963 All 527 Mangali v/s Chakki Lal and others, 1985 KLT 484 Kunhikannan and others v/s Assistant Sub Inspector of Police** *and* **Emperor v/s Subramonia AIR 1935 Mad 648** *are relied on.*

ILR 1991 (2) Ker 702 = 1991 (1) KLJ 807 = 1991 (1) KLT 153 Joy and another v/s State of Kerala and two others

A person accused in prosecution launched by State can be nominated Disqualification under Rule 44 (1) (c) does not apply to nominated members under Section 31 of the Act where Government has an interest in society and obviously to safeguard that interest. The rules does not disqualify a person accused in prosecution launched by State to be nominated.

1981 KLT 335 = 1985 KLN 150 Edvanna Service Co-operative Bank Ltd v/s Shoukathali

DISQUALIFICATION UNDER RULE 44 (1) (d)

A mere consent to sell the property does not attract disqualification Rule 44 (1) (d) - To entail disqualification under the rule, the existence of a contract which is legal, valid and binding on both the parties, liable to be enforced by or against the society is a sine qua non. A mere consent to sell the property which is not a bilateral agreement, not supported by consideration cannot be termed as a contract in law. A consent letter which is not even an agreement to sell, cannot prove lethal to the petitioner's membership of the committee of the society.

1989 (1) KLJ 736 = 1989 (1) KLT 852 Joy Neeralakottil v/s Joint Registrar and others

DISQUALIFICATION UNDER RULE 44 (1) (f)

As there is no statutory right for a person to get exemption, a writ is not maintainable Rule 44 (1) (f) - The power of the Registrar to exempt any society or any person from the operation of disqualification clause is discretionary - As there is no statutory right for a person to get exemption, a writ for a direction to exercise the discretion is not maintainable.

If a duty is cast on an authority by the constitution or any of the statutes it is bound to exercise the duty. If no duty is cast on the authority, he can either act or refuse to act. A person can compel an authority to exercise discretion only if the authority, has a duty to exercise discretion and that there is a corresponding right for the person to compel that authority to exercise discretion. As held by the Supreme Court in **State of MP v/s Madawar, AIR 1954 SC 493**, there must be in the applicant a right to comply the performance of some duty cast on the opponent. That duty of the authority must be imposed on it by some statutory provision or by the Constitution. As held by the Supreme Court in State of Kerala v/s Lakshmikutty, AIR 1987 SC 33, the Court will only enforce the performance of statutory duties by public bodies on application of a person who can show that he has himself a legal right to insist on such performance. *In this judgment* **AIR 1954 SC 493 State of MP v/s Madawar** *and* **AIR 1987 SC 33 State of Kerala v/s Lakshmikutty** *are followed.*

1998 (2) KLT 402 Rasheedkutty v/s Joint Registrar of Co-operative Societies

DISQUALIFICATION UNDER RULE 44 (1) (i)

Doing Similar Business Co-operative Societies Rules, 1969 (Kerala) - Rule 44 (1) (i) - Elected member of a society also the Managing Director of a company doing similar business - Resigning from the Director Board of the company, prior to issuance of notice - Is of no consequence since qualification enured prior to issuance of notice. *In this judgment* **1978 KLT 887, 1983 KLT 640** *and* **1988 (1) KLT 190** *are referred to.*

2005 (3) KLT SN 37 C 43 DB Pushkaran v/s Joint Registrar of Co-operative Societies

Principal executive of a company running the same business is disqualified Cooperative Societies Rules, 1969 (Kerala) - Rule 44 (1) (i) – Whether the principal executive of a company running a particular business is qualified to be in the managing committee of a cooperative society running the very same business – Held, he is disqualified .

The rule prohibits persons associated with running business identical to those run by the society from being elected to the Managing Committee. In other words, it is meant to keep rivals in business at bay. If a rival in the business is allowed to manage the affairs of the society, it will be detrimental to its interest. So, keeping this object in

view, I am not inclined to accept the interpretation advanced by the learned counsel for the Petitioner to the above said rule. The principal executive of a company running a particular business is disqualified to be in the managing committee of a cooperative society running the very same business.

2004 (1) KLT SN 3 Pushkaran v/s Joint Registrar of Cooperative Societies

DISQUALIFICATION UNDER RULE 44 (1) (j)

Society has power to add further disqualification in bye-law Rule deals with disqualification of membership of the Committee of the society. The Rule 44 cannot be taken as exhaustive as there can be other disqualification which are outside the purview of the Rule. They can certainly be incorporated lawfully in the bye-laws of a particular society depending upon situations in which they are placed. Merely because Rule 44 (1) (m) has been deleted it does not follow that a society is bound to fall in line by making suitable amendments in its bye-laws.

1995 (2) KLT 162 Kamala v/s Dairy Extension Officer

Rule 44 (1) (j) is not ultra vires Section 109 - Co-operative Societies Act, 1969 (Kerala), Rule 44 (1) (j) - The provisions of Section 109 (1) of the Act embodies the rule making power and confers it on the Government. It only says that the rules should carry out the purposes of the Act. Rule 44 (1) (j) sees that only proper and fit persons are placed in charge of the affairs of the society. Each society may have its own peculiar features requiring different or additional qualifications or disqualifications to be prescribed. Rule 44 (1) (j) is not violative of the provisions of Section 109 (2) (xiv) of the Act and is not ultra vires Section 109 of the Act.

1992 (2) KLT 646 = 1992 (2) KLJ 711 Sumathikutty Amma v/s State of Kerala

A person may be disqualified under bye-laws even if he is otherwise qualified The Bye-laws may add more heads of disqualification which are not otherwise found in Section 28 (2) or Rule 44 (1) or to put in differently, a person may be disqualified under bye-laws even though he may not be disqualified under Section 28 (2) or Rule 44 (1).

1988 (2) KLT 725 = 1988 (2) KLJ 593 Raghava Kurup v/s Joint Registrar

Instituting a Civil suit against the Society is not prejudicial to the interest of the Society Co-operative Societies Rules, 1969 (Kerala) - Rule 44 (2) and 44 (1) (j) - A member of a Co-operative Society instituting a Civil suit against the Society, for that reason, his canduct cannot be characterized as prejudicial to the interest of the Society so as to attract disqualification.

1976 KLT 792 = ILR 1977 (1) Ker 195 Sanku v/s State of Kerala

DISQUALIFICATION UNDER RULE 44 (1) (k)

Once an order of supersession is made, the question whether there was actual supersession becomes irrelevant Co-operative Societies Rules, 1969

(Kerala), Rule 44(1)(k) – Order of supersession of Committee passed by Registrar – Order stayed by Court – Appeal to Government also dismissed – Meanwhile term of the Committee expiring – Once an order of supersession is made, the question whether there was actual supersession becomes irrelevant.

The disqualification for being elected as a member of a future committee for one year arises when a person was a member of the committee which was superseded. Once an order of supersession is made, the question whether there was actual supersession or not becomes irrelevant when considering the question whether there will be disqualification for a person for being elected as a member of the committee as envisaged in R.44(1)(k) of the Kerala Co-operative Societies Rules. That being the position, the petitioners cannot be heard to say that they are not having disqualification for the reason that there was no actual supersession of the committee. It follows that the rejection of the nomination papers submitted by the petitioners for the election to the committee is not in any way illegal. *In this judgment* **AIR 1992 SC 1981** *and* **1985 Suppl SCC 280** *are referred to.*

1999 (3) KLT 707 Aliyar v/s Returning Officer

DISQUALIFICATION UNDER RULE 44 (1) (m)

Society is not bound to amend bye-laws merely because Rule 44 (1) (m) has been deleted Rule 44 (1) (m) - Disqualifications mentioned in Rule 44 are not exhaustive - There can be other disqualifications which are outside the purview of the Rules - Merely because Rule 44 (1) (m) has been deleted, it does not follow that society is bound to make amendments in the bye-laws.

There may be instances where peculiar features of particular societies require special qualifications or disqualifications for membership of the managing committee. These can be worked out only in bye-laws, Rule 5 only lays down that bye-laws of a society should not be contrary to the provisions of the Act and Rules. It empowers the society to deal with all or any of the matters particularly specified. As it would not be possible for the Government to provide for all possible contingencies or to meet all possible situations in framing Rules, bye-laws which are not contrary to the Act and Rules cannot be ignored on the ground that a particular Rule which contained similar provision as in a bye-law has been deleted.

1995 (2) KLT 162 Kamala v/s Dairy Extension Officer

DISQUALIFICATION UNDER RULE 44 (1)

Disqualifications mentioned in Rule 44 are not exhaustive Rule 44 (1) - Rule 44 deals with disqualifications of membership of the committee to a society. The disqualifications mentioned in Rule 44 cannot be taken as exhaustive. Other disqualifications, which are outside the purview of Rule 44, can be incorporated in the bye-laws of individual societies, depending on the peculiar situations in which they

are placed. Viewed in this light a society may be justified in retaining provisions similar to Rule 44 (1) (m) in its bye-laws, even though that clause has been omitted by notification.
1993 (2) KLJ 864 DB K.N. Gangadharan Nair and others v/s George Thettayil and others

Disqualification for becoming committee member for more than three consecutive terms Rule 44 (1) - The bye-laws of a Co-operative Society, like the Article of Association of a Company, constitute contract not only between the Society and its members but also between the members inter se. They are binding between the members and governor their mutual relationship and rights inter se vis-a-vis affairs of the Society. They rule the internal management, business or administration of the Society. The provisions contained in Section 28 of the Act and Rule 44 of the Rules have given effect to this principle. The bye-laws may therefore add heads of disqualification which are not otherwise found in Section 28 (2) or Rule 44(1), or to put it differently, a person may be disqualified under the bye-laws even though he may not be disqualified under Section 28 (2) or Rule 44 (1). The bye-laws govern so long as they are not inconsistent with the Act or the Rules. The members of the Society have prescribed by their duly approved bye-laws that no person shall be a member of the managing committee for more than three consecutive terms except with the special sanction of the Deputy Registrar. Such a bye-law is authorised by Rule 44 (1) (j). It is not inconsistent with the Act or the Rules. If so, it should govern. The petitioner was not therefore eligible to contest at the election as he had already had three consecutive terms as members of the committee. His nomination was rightly rejected by the Returning Officer.
1988 (2) KLT 725 = 1988 (2) KLJ 593 Raghava Kurup v/s Joint Registrar

A person can be disqualified if he incurred the disqualification on the date of issuance of notice under Rule 44 (1) The disqualification should exist when the action is initiated under Rule 44 (1). When an election is not challenged in an election dispute, and he is declared to be disqualified by proceedings taken under Rule 44 (1), he could be disqualified under the said Rule when he incurred the disqualification on the date of issuance of notice under Rule 44 (1).
1988 (1) KLT 190 = 1988 (1) KLJ 143 = AIR 1988 Ker 289 DB Abdul Rasheed v/s State of Kerala

DISQUALIFICATION UNDER RULE 44 (2)

Disqualification under Section 20 should have been decided prior to the election R.44(2) – Disqualifying a member – If there was disqualification under S.20, such disqualification should have been decided prior to the election and such disqualification cannot be raised after the election, as it is not included in sub-r.(2) of R.44.

The disqualification under S.20 is not included in sub-rule (2) and as such even

if an elected member was not an active member, he does not suffer a disqualification when once elected. If there was disqualification under S.20, such disqualification should have been decided prior to the election and such disqualification cannot be raised after the election, as it is not included in sub-r. (2) of R.44.

2003 (1) KLT 1008 = 2003 (1) KLJ 629 Gopalan Nair v/s State of Kerala

A person cannot be a defaulter unless and until a notice is served and he fails to make such payment Rule 44(2) - Proviso - disqualification from membership of the managing committee - A person cannot be a defaulter unless and until such a notice is served and he fails to make such payment within a period of one month. In the absence of any evidence of such notice being served on them before proceedings were initiated, order passed disqualifying certain directors is illegal and liable to be set aside.

1992 (2) KLT 308 = 1992 (2) KLJ 65 = 1994 Co. Cases (79) 716 Justus Daniel v/s State

Disqualification that came into existence subsequent to election When Rule 44 (2) (a) speaks of disqualification under sub-rule (1), it is necessary to bear in mind that the disqualification mentioned therein is not the pre-existing disqualification but the disqualification that came into existence subsequent to election. Otherwise the mention in Rule 44 (2) (a) of sub-rule (1), becomes otiose and unnecessary. The disqualification in Rule 44 (1) (c) (i) and (ii) have to be understood as not disqualification that arose prior to election but disqualification that arose subsequently. An elected member can be in default subsequent to his election. He can be sentenced for an offence after he is elected. Default can be not only a default that existed prior to the election but also a continuing default after election. Similarly, sentence for an offence can be prior to election and subsequent to election. The words used in Rule 44 (1) (c) (ii) are "has been sentenced for any offence". These words cannot be understood to mean only past conviction and sentence. They denote also future sentence. The default and sentence mentioned in Rule 44 (1) (c) is not only the default and sentence that existed prior to election but even subsequently.

1983 KLT 640 = 1983 KLJ 345 = 1983 KLN 379 Madana Mohan Kartha v/s Elamkulam Service Co-operative Bank

DISQUALIFICATION UNDER RULE 44 (3)

Power of the Registrar to declare that a person is disqualified to be a member of the Committee Rule 44 (3) - Use of the expression 'may' - In the context in which it is used it cannot be interpreted as merely conferring a discretion but is suggestive of a compelling duty cast on he Registrar to make the declaration.

That the disqualified person "shall cease to be a member of he committee of a society concerned from the date of such disqualification". "May" in statutory provision normally denotes that it is optional for the person concerned to do the particular act. In

a certain context the word "may" would suggest that it is incumbent on the person to do the act enjoined on him. The context in which the word 'may' is used in sub-rule (3) would suggest that it was not merely a discretion or option conferred on the Registrar to act either on his own motion or on a representation made to him by any member of the society. The option is only to decide whether his action should be on his own motion or on the basis of any representation. Otherwise he has no option in the matter.
1995 (1) KLT 674 = 1995 (1) KLJ 498 = ILR 1995 (2) Ker 790 Mary Thomas v/s Jerome Thomas

Disqualification only after following procedure under Rule 44 (3) Rule 44 (3) - Order of disqualification of sitting Members of Managing Committee only after following procedure under Sub-rule (3) including opportunity to person affected, and receiving objection and personal hearing, if so desired.
ILR 1994 (3) Ker SN 26 = ILR 1995 (1) Ker 360 = 1994 (2) KLT 974 = 1994 (2) KLJ 754 DB Rajagopalan v/s Baby Alex and others

Until disqualification by Registrar member may continue in committee Rule 44 (3) - Till the Joint Registrar passes order disqualifying the person from membership of the managing committee, he should continue to be member of the managing committee and take part in the deliberations. Person against whom proceedings are initiated can participate in the meeting to consider a non-confidence motion.
ILR 1994 (3) Ker SN 26 = ILR 1995 (1) Ker 360 = 1994 (2) KLT 974 = 1994 (2) KLJ 754 DB Rajagopalan v/s Baby Alex and others

Disqualification order can be passed only according to procedure Co-operative Societies Rules, 1969 (Kerala) - Rule 44 (3) - Disqualification of a sitting member of the managing committee - Order can be passed only according to the procedure under the rule. A declaration after following the procedure prescribed by the sub rule (3) is thus required for the person ceasing to be a member of the managing committee.
ILR 1994 (3) Ker SN 26 = ILR 1995 (1) Ker 360 = 1994 (2) KLT 974 = 1994 (2) KLJ 754 DB Rajagopalan v/s Baby Alex and others

A person automatically ceases to be a member of the Committee when he ceases to be a member of the society When an opportunity to be afforded to a member while action taken for disqualification - When a member of the committee ceases to be a member of the society, he automatically ceases to be a member of the Committee. Such a member of the Committee is not entitled to an opportunity to state objections envisaged in Rule 44 (3) only when the proposed declaration involves a finding or determination of disqualification an opportunity to state objection is to be given. The opportunity envisaged by sub-rule (3) of the Rule 44 is against the "proposed action" which means the action of declaring that such a member "is or becomes disqualified" and that therefore "he shall cease to be a member of the committee of the society concerned from the date of such disqualification". Sub-rule (3) of

Rule 44 has deliberately used the words is or becomes disqualified. These words means that the proposed declaration must involve a finding or determination of disqualification only then the "opportunity to state his objection is attracted.

1993 (2) KLT 366 = 1993 (2) KLJ 36 Poulose v/s Joint Registrar

DISQUALIFICATION UNDER RULE 44 (4), (5) AND (6)

Disqualification under Rule 44 (4), (5) and (6) is Valid These provisions are well within the rule making power of the Government and are introduced in continuation of the disqualification for membership in the committee provided for in Rule 44 It is true that a preliminary finding against a member of the society does not make him ineligible for being elected or appointed as a member of the committee. Sub-clause (iii) to clause 6 in sub-rule (1) of Rule 44 introduced is in respect of final findings. There is no illegality in providing for additional disqualifications for continuing as a member of the committee in addition to those which makes a member of the society ineligible for being elected or appointed as a member of the committee. The disqualification provided in sub-rule 4 of Rule 44 is only temporary, pending final decision by the Commission. Merely because such a situation is not envisaged in the Kerala Public Mens Corruption (Investigation & Inquiries) Act, 1987, it does not preclude Government from providing a statutory rule that regard in the Kerala Co-operative Societies Rules to keep away, for the time being, a person against whom prima facie allegations of corruption have been found against from the position as an office bearer of the Society.

1998 (1) KLT 213 Sivadasan Nair v/s State of Kerala

Disqualification is only against becoming an office bearer A person against whom a preliminary finding has been made by the Commission will not be disqualified for continuing as member of the committee-Disqualification is only against becoming an office bearer. Sub-rule (4) deals with a disqualification to be or for continuing as an office bearer with a designated position, such as President, Chairman, Manager or in any name.

1998 (1) KLT 213 Sivadasan Nair v/s State of Kerala

ACT

[*S31. **Nominees of Government on committee of an apex or a central society :-** (1) Where the Government-

(a) have subscribed to the share capital of an apex or a central society; or

(b) have assisted indirectly in the formation or augmentation of the share capital of an apex or a central society; or

(c) have guaranteed the repayment of principal and payment of interest on debentures issued by an apex or a central society; or

(d) have guaranteed the repayment of principal and payment of interest on loans and advances to an apex or a central society;

the Government or any authority specified by them in this behalf shall have the right to nominate not more than three persons or one-third of the total number of members of the committee of such apex or central society, whichever is less, to be members of the committee.

(2) A person nominated to the committee of an apex or a central society under sub-section (1) shall hold office during the pleasure of the Government or the specified authority, as the case may be.

(3) A person nominated to the committee of an apex or a central society under sub-section (1) shall not take part in the discussion of any no-confidence motion or vote on any such motion.

(4) Any person who holds office as a nominated member of the committee of a society, other than an apex or a central society, at the commencement of the Kerala Co-operative societies (Amendment) Act, 1987, shall cease to hold such office at such commencement.]

RULES

R37. Procedure for appointment of Nominees and their removal from the Committee of a society :- (1) Appointment of nominees of Government under Section 31 shall be made, in the case of Apex Societies by the Government and in the case of other societies by the Registrar. [**xxx].

(2) The powers, duties, the functions and responsibilities of a person nominated to the committee under Section 31 or under the bye-laws of a society by any authority [#xxx] shall be the same as those of a member duly elected under the bye-laws.

(3) When the Registrar or any other Officer exercising the powers of the Registrar is on the committee either as a nominated or as an ex-officio member of any society, no resolution or decision taken by that society at a meeting in which such

* Substituted by Act 19 of 1987

** Omitted by SRO 510/69

Omitted by SRO 961/75

officer or officers in their capacity as a member of the committee participate shall be deemed to carry with it the sanction of the Registrar. Registrar's or any other Officer's presence at such committee meetings in the above capacity shall not preclude the Registrar or other officers from examining such resolutions or decisions, in exercise of his powers conferred by the Act or Rules and in passing orders either according to or refusing sanction or approval.

[*xxx]

CASE LAWS

Nomination of Directors Multi-State Co-operative Societies Act, 2002 (Kerala) - Sections 48 and 126 - Power of State Government to nominate directors in the Board - Act provide the State Government to nominate minimum one nominee - Bye-law provides for two - Already two were nominated - State Government will not get a right to nominate an additional Director over and above the Directors already nominated. *In this judgment* **1970 KLT 561** *and* **1981 KLT 335** *is distinguished and 1994 (3) Kar LJ 5 FB is dissented from.*

2005 (1) KLT 206 DB Subbayya Bai v/s Karunakaran Nambiar

Nomination of three persons in a committee of seven elected members is valid Section 31 (1)--Director Board consisting of 7 elected members--Government nominating 3 persons--Is valid--"1/3rd of the total number of members of the committee" meaning of.

There must have some relevance for the word "total" when the Legislature used the word. The Legislature did not use the word '1/3rd of the elected members of the committee'. But the Legislature used the words '1/3rd of the total number of the members of the committee'. There is significant difference. Total means the aggregate of more than two sums. In the situation, the aggregate of elected and nominated members, when the number of members nominated as per Ext. P 9 is added to the elected members, the total number is taken, the members nominated do not exceed 1/3rd or 3 members as provided in Section 31 (1) 1/3rd of 7 is 2.33 and the only way of having 2.33 human beings is to nominate 3 persons and on that reason also Ext. P 1 is justified. *In this judgment* **1971 KLT 535** *is referred to.*

2002 (2) KLT 116 = 2002 (1) KLJ 467 Padmanabhan Nambiar v/s Registrar of Co-operative Societies

Refusal to approve amendment of bye-laws for dispensing with nomination of official members is improper Proposal by a credit society for amendment of bye-laws for dispensing with nomination of official members on committee - Held that refusal to approve the said amendment improper.

AIR 1998 Ker 83 V.V. Samuel v/s State of Kerala

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* Omitted by SRO 90/76

It is not necessary to have nominees where the interest of the Government is not involved Sections 31 and 28 - Only where Government has subscribed to the share capital of an apex or a central society, the Government shall have the right to nominate its nominees.

On a plain reading of Section 31 as it stands now, it becomes crystal clear that only where the government has subscribed to the share capital of an apex or a central society, the Government shall have the right to nominate not more than three persons or one-third of the total number of members of the committee of such apex or central society, whichever is less, to be members of the committee. This is necessary to exercise proper control over the affairs of the society and to safeguard the interest of the Government as well as its members. It is no longer necessary to have the representation of the Government nominees in the committee of other Co-operative Societies where the interest of the Government is not involved in any manner.

1997 (2) KLT 568 = AIR 1998 Ker 83 Samuel v/s State of Kerala

Section 20 deals with the vote in the general body of a society and not in the managing committee Sections 20 (b) and 31 - A reading of Rule. 37 makes the intention of the legislature is very clear to the effect that the nominees shall have the same power, duties, functions and responsibilities as those of the members elected under the bye-laws. In the case of such a clear provision, the restriction that is contemplated under Section 20 (b) has to be read down as to mean other societies than apex and central societies and societies contemplated under Section 28 A. As rightly pointed out, Section 20 deals with the vote in the general body of a society and not in the managing committee.

1996 (2) KLT 942 = 1996 (2) KLJ 289 N. Sudarsanan v/s State of Kerala and others

Functions of the Registrar as an ex officio member is no bar to function as statutory authority Rule 37 (3) - The rule which enable the Registrar or other officers to function as statutory authorities cannot be arbitrary violating the principle that no man can be judged on his own cause.

In the capacity of an ex officio member Registrar and other officers are participating in the function of the society under various provisions of the Co-operative Societies Act would not preclude them while functioning as authorities competent under the Act specifically provided. The principle that he cannot be the judge of his own cause cannot be attribute in this case because the Registrar has no personal role to play in the affairs of the society. He functions as an ex officio member of the society whereas under the Rules and Act the functions as an authority conferred with the power. *In this judgment* **AIR 1964 Mysore 159 Dr. P.S. Venkata swamy v/s University of Mysore, AIR 1967 Delhi 86 M.L. Joshi v/s Director of Estates** *and* **AIR 1961 SC 1743 Registrar Co-operative Societies v/s Dharam Chand** *are relied on.*

1996 (2) KLT 942 = 1996 (2) KLJ 289 N. Sudharsanan v/s State of Kerala and others

Nominees under Section 31 are not required to be members of the society Section 31 - Nominees under Section 31 are not required to be members of the society or even persons qualified to be such members.

What Section 31 contemplates is nomination of "persons" as members of the committee and not nomination of "members" of the society as members of the committee. The position of a person who is nominated under Section 31 is quite different. A person nominated under Section 31 of the Act is to hold membership during the pleasure of the Government or the specified authority. He shall not take part in the discussion of any no confidence motion or vote on any such motion. The provision regarding disqualification under Rule 44 of the Rules does not apply to a person to be nominated under Section 31 of the Act. This again would strengthen the conclusion that nominees under Section 31 are not required to be members of the society or even persons qualified to be such members. *In this case* **1985 KLT 125 Somasundaram v/s Joint Registrar** *is referred to.*

1996 (2) KLT 375 Abdul Rehaman Kutty v/s Registrar of Co-operative Societies

Nominated member can continue only until the nomination is withdrawn Section 31 - Statute does not give the nominated member the right to continue on the Board once the nomination is withdrawn - A person nominated by the Government holds office during the pleasure of the Government or the specified authority.

The appellant in the Writ Appeal and the petitioners in the Original Petitions got themselves nominated to the Managing committee of the respective Co-operative Societies under Section 31 (2) of the Act. The Government or specified authority as the case may be, nominated them depending on their subjective satisfaction. They are to hold office as nominated members, during the pleasure of the State or the specified authority as the case may be. Their nomination was also on political grounds. So, when the political set up of the State changed, the nomination can also be changed. The places held by the petitioners can be filled up by a new set of nominated members. Nominated members of the committee formed a different class. They cannot claim equality with elected members. Nor can they claim right to continue for the term for which they are nominated. *In this case* **AIR 1993 SC 1440 Sugunan v/s State of Kerala** *is relied on.*

ILR 1996 (3) Ker 798 =1996 (2) KLJ 136 = 1996 (2) KLT 336 DB Sugunan G. v/s State of Kerala and others

Nomination is also an appointment which is prohibited during public election Model of conduct for Elections - Nomination of a person to the Board of Directors after announcement of elections - Nomination is also an appointment which is prohibited not only in Government and Public undertakings but also in other sectors.

The elections for the Parliament and Assembly have been announced on 19-3-1996 and it has been widely circulated through all the leading newspapers. Therefore,

the proceedings of the Registrar dated 20-3-1996 nominating the petitioner is squarely covered by the prescriptions under the General Conduct. As per this prescription no authority shall make even any adhoc appointments in Government or Public adhoc appointments in Government or Public Undertakings etc. In this case the appointing authority is the Registrar who will squarely come within the meaning of other authorities' since he is an authority functioning under the Co-operative Societies Act.

1996 (1) KLT SN 48 P 36 = ILR 1996 (3) Ker 798 Sugunan v/s State of Kerala

The authority who makes the appointment or nomination has always the power to cancel the nomination or appointment Section 31 (2) - There is no question of stigma or evil consequences to the petitioner and consequently no opportunity need be given to the petitioner before the withdrawal of the nomination. The authority who makes the appointment or nomination has always the power to cancel the nomination or appointment. The petitioner having no vested right to the office of the Directorship, his continuance and acquiring of any further right by virtue of his nomination would not entitle him to any benefits whatsoever.

1996 (1) KLT SN 48 P 36 = ILR 1996 (3) Ker 798 Sugunan v/s State of Kerala

Power of the Registrar to make nomination Section 28 A (3) (ii) : No fetter imposed on the power of the Registrar to make nomination to the Board of Directors, Bye laws have no force of law and cannot override the provisions of the Acts or Rules.

1994 (2) KLT 516 Babu v/s Joint Registrar

Nominated members have the right to vote at the election Co-operative Societies Act, 1969 (Kerala) - Section 31 (3) - Members nominated by the Government to the managing committee of an Apex Society have the right to vote at the election of the Chairman Vice Chairman and the Executive Committee – Preclusion is only from voting on no confidence motions. *In this judgment* **1979 KLT 874 Pavithran v/s State of Kerala** *is relied on and* **1975 KLT SN 49 C 127 C.M. Gheevarghese v/s Deputy Registrar of Co-operative Societies and others** *is distinguished.*

ILR 1994 (3) Ker 837 = 1994 (1) KLJ 819 = 1994 (2) KLT 80 Kumaran and another v/s Government of Kerala and others

Section 31 (3) is alter enactment in so far as the nominee's right to vote is concerned Section 20 - Proviso Clause (b) and Section 31 & Rule 37 (2) of the Rules - Clause (b) of proviso to Section 20 is repugnant to sub-section (3) of Section 31 and Rule 37(2). Sub-section (3) of Section 31 by its re-enactment in 1987 is alter enactment in so far as the nominee's right to vote is concerned. In such cases the rule of interpretation is that the earlier enactment stands abrogated. *In this case* **1975 KLT SN 49 C.M. Gheevarghese v/s The Deputy Registrar of Co-operative Societies and others** *is distinguished.*

ILR 1994 (3) Ker 837 = 1994 (1) KLJ 819 = 1994 (2) KLT 80 Kumaran and another v/s Government of Kerala and others

Joint Registrar is included in "any authority specified by the Government in that behalf' Section 31 : Co-operative Societies Rules, 1969 (Kerala) Rule 37 - The power under section 31 of the Act is vested in the Government or "any authority specified by the Government in that behalf". What the Government is required to do is to specify 'an authority in that behalf". Such specification is made by virtue of Rule 37 of the Rules. What the rule does is to specify the authority. The Registrar has been specified as such an authority. Need to specify 'Registrar as nominating authority arises because, but for such specification, Registrar has no such authority under Section 31. This is so irrespective of whether the Registrar is one appointed as such under Section 3 (2) of the Act or is Joint Registrar deemed to be Registrar by virtue of conferment in terms of power of Registrar under the Act. The expression "Registrar" is not defined in the Rules. Perforce, we have to look to the definition of "Registrar as it occurs in the Act. "Registrar" as defined in the Act read in the light of the notification would include Joint Registrar.

1985 KLT 125 = 1985 (1) KLN 117 Somasundaram v/s Joint Registrar

Disqualification does not apply to persons to be nominated Section 31 - The members nominated to the Society under Section 31 of the Act need not be members of the Society or qualify to be so. The nominated member has to hold the membership during the pleasure of the Government or the specified authority. He shall not take part in the discussion of any 'no confidence motion' or vote on any such motion. The provision regarding disqualification does not apply to persons to be nominated under Section 31 of the Act.

1985 KLT 125 = 1985 (1) KLN 117 Somasundaram v/s Joint Registrar

Nominated person is to hold membership during the pleasure of the authority The person so nominated under Section 31 of the Act is to hold membership during the pleasure of the authority. The provision regarding disqualification does not apply to person to be nominated under Section 31 of the Act. This again strengthen the conclusion that nominees under Section 31 are not required to be members of the society or even persons qualified to be such members.

1985 KLT 125 Somasundaram v/s Joint Registrar

The Chief Minister usurping the statutory function of Registrar would be illegal Registrar empowered under bye-laws of District Central Co-operative bank to nominate first Board of Directors for a period not exceeding one year at a time and not exceeding 3 co-operative year in aggregate - The Chief Minister extending the term of the first Board of Directors by usurping the statutory function of Registrar under the bye-laws, would be illegal.

(Bihar and Orissa Co-operative Societies Act)

AIR 1984 SC 322 = 1984 (2) SCC 41 Chandrika Jha v/s State of Bihar

Nomination of an accused person to the committee Neither the Act nor the Rules disqualify a person in the position of respondent 1 for being a Director.

While it might have been desirable to keep out such a person from the Board of Management, it is not possible to invalidate his nomination as a Director.

1981 KLT 335 = AIR 1982 Ker 84 = 1981 KLN 150 Edavana Service Co-operative Bank Ltd v/s Shoukathali

Nominated persons have a right to participate in the election of the President Sub-section (3) of Section 31 makes that such members would not be entitled to take part in a discussion on no confidence motion or vote on such motion. Impliedly this show that they have a right to participate in the election of the President and the bar is only to the participation in discussion on any no confidence motion and on any such motion. *This judgment was relied on in* **1994 (2) KLT 80 = 1994 (1) KLJ 819.**

1979 KLT 874 Pavithran v/s State

If the Government has assisted to secure contribution to the share capital, Section 31 squarely attracted Ordinarily the constitution of the committee would be governed by the provisions of Section 28 The provisions therein will stand qualified by the provisions contained in Section 31 of the Act when any of the requirements stated in clauses (a) to (d) of sub-section (1) of that Section 31 is fulfilled. If the Government has assisted to secure contribution to the share capital, Section 31 squarely attracted and the Registrar of Co-operative Societies is entitled to nominate members to the Committee.

1979 KLT 874 Pavithran v/s State of Kerala

No notice is necessary to cancel the nomination of a person defeated in election A mistake committed in issuing an executive order is susceptible for rectification by passing a revised order. Whether notice and hearing ought to be insisted upon will depend upon the circumstances of each case. In the present case nomination had been made in ignorance of the fact that the petitioner is person who had been defeated in the election. In view of the circular the first respondent is bound to cancel it. No notice was necessary.

1977 KLT 37 Joseph v/s Deputy Registrar of Co-operative Societies

Registrar has no power to revoke nomination of the members of the Committee made by him Section 28 provides that Registrar may nominate all or any of the members of the Committee where the bye-law so provide. The section does not confer any special power on the Registrar in that behalf. It is only an enabling provision which makes it possible for the Registrar to nominate members in terms of the bye-laws. In the absence of any provision to that effect in the bye-laws, the Registrar has no such power. The power of the Registrar to nominate, if the bye-laws so provide is not statutory power. Section 28 does not confer such power, but permits the society to do so by means of bye-laws which are contractual in nature and similar to Articles of Association of Company. They may be binding between the persons affected by them; but they do not have the force of a statute. In matters of nomination the Registrar was

not empowered under the statute but only under the bye-laws. *In this judgment* **AIR 1950 FC 140 Kutoor Vengayil Rayarappan Nayanar v/s Kutoor Vengayil Valia Madhavi Amma** *is referred to.*

1976 KLT 318 = ILR 1976 (1) Ker 650 Sukumaran v/s Sukumaran Unni

Nominated members may stand for election Government is a member of the society having contributed substantial amount towards share capital. Two members nominated by the Deputy Registrar have no right of voting at the election. But there is no provision in the Act preventing them from standing for election as office bearers of society.

1975 KLT SN 49

Rule 37 (4) is beyond the rule-making power under Section 109 Co-operative Societies Rules, 1969 (Kerala) - Rule 37 (4) - The rule is beyond the rule-making power under Section 109 of the Act to carry out the purposes of the Act. *In this judgment* **AIR 1966 SC 1788 Arnold Rodricks v/s State of Maharashtra** *and* **AIR 1945 PC 156 Emperor v/s Sebnath Banerji** *are relied on. Rule 37 (4) is omitted now.*

ILR 1972 (2) Ker 79 =1972 KLT 661 DB = AIR 1972 Ker 132 State of Kerala v/s M. Pavithran and others

ACT

[*S28AA. **Election and Removal of President, Vice-President etc :-** (1) A committee constituted under sub-section (1) of section 28 shall elect from themselves a President, a Vice-President or a Treasurer or any other officer by whatever name he is designated in the manner as may be prescribed.

(2) A committee shall remove from office the President, Vice-President or the Treasured or any other officer of the committee if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.]

RULES

#R43. **Election of President, Vice President etc., by members of committee :-** (1) The election of President, Vice President, Treasurer or any other officer by whatever name he is designated shall be in the manner specified in this rule.

(2) As soon as a new committee is constituted, a meeting of the members of the new committee shall be convened.

(3) The meeting shall be presided over by any member, who is not a candidate for the election, chosen by the committee, (hereinafter referred to in this Rule as the Presiding Officer) for the purpose.

(4) The nomination papers shall be presented to the Presiding Officer at the meeting. The Presiding Officer shall decided the objections, if any, that may be made at the time, to any nomination after making such summary enquiry as he thinks necessary and announce the name or names of the eligible candidate or candidates.

(5) When there is not more than one valid nomination for any office, the Presiding Officer shall declare the candidate, in respect of whom the nomination paper has been received, duly elected to such office.

(6) Where there is more than one valid nomination for any office, the Presiding Officer shall forthwith arrange for taking a poll by providing the ballot papers and ballot box. The member shall make the mark '**X**' in the ballot paper against the name or names of the candidate or candidates for whom he desires to vote and put the ballot paper into the ballot box with utmost secrecy.

(7) As soon as the members present have recorded their votes, the Presiding Officer shall open the ballot box in the presence of the members, count the votes and announce the results of election with the number of votes secured by each [**in the case of equal division of votes, the results shall be decided by lots to be drawn by the Presiding Officer.]

* Inserted by Act 3 of 2002

** Inserted by SRO 510/69

#The College Co-operative Societies are exempted from Rules 38 and 43 vide SRO 1208/76

(8) The proceedings of the meeting with the results of the election shall be recorded in the minutes book of the society and attested by Presiding Officer.

(9) The ballot papers and other records shall be secured in container which shall be affixed with the seal of the society and the candidates who desire to affix their seals and they shall be preserved for three months from the date of election. It shall be the responsibility of the Secretary to keep these records in tact. They shall be destroyed after that period, if not dispute relating to or in connection with the election is referred to the Registrar

[*R43A. **Removal of President, Vice-President etc. by no-confidence motion :-** A committee shall remove the President or the Vice-President or the Treasurer or any other officer of the committee from his office by a no-confidence motion in the following manner namely:-

(i) A notice of intention to move a no-confidence motion signed by such number of members as shall constitute not less than one third of the total strength of the committee, together with a copy of the motion which is proposed to be removed shall be delivered to the Registrar, in person, by any two members signing the notice.

(ii) Any officer duly authorised by the Registrar concerned in this behalf, shall arrange for the consideration of the motion in a meeting of the committee to be held at the office of the society on a date appointed by him, which shall not be later than thirty days from the date on which the copy of the motion referred to in clause (i) was delivered to the Registrar. The said officer shall give to the members, not less than fifteen clear days of notice of such meeting and of the time appointed therefore.

(iii) The officer authorised under clause (ii) shall preside over the meeting convened under this rule.

(iv) A meeting convened for the purpose of considering a motion under this rule shall not for any reason, be adjourned.

(v) No meeting under this rule shall be held, if at the time appointed under the foregoing provisions or, within half an hour from such time, such number of members as shall constitute one half of the total strength of the committee are not present.

(vi) As soon as the meeting convened has commenced, the officer presiding at the meeting shall read to it the motion for the consideration of which it has been convened and declare the motion to be open for debate.

(vii) No debate of any motion under this rule shall be adjourned.

(viii) The officer presiding over the meeting shall neither speak on the merits of the motion nor be entitled to vote thereon but shall regulate the proceedings of the meeting.

(ix) A copy of the minutes of the meeting showing the result of the voting, together with a copy of the motion shall, on termination of the meeting, be forwarded

* Inserted by SRO 1185/2003

to the Registrar forthwith by the presiding officer of the meeting.

(x) If the motion is carried with the support of the majority of the members of the committee and if the President or the Vice-President or the Treasurer or any Officer of the committee, as the case may be, does not resign his office within two days after the passing of the motion he shall cease to hold the office of the committee of the society forthwith.

(xi) If no meeting could be held for want of quorum as required under clause (v), or if the motion is not carried by such a majority as required under clause (x), no notice of any subsequent motion expressing want of confidence on the same President, Vice-President, the Treasurer or any officer of the committee, shall be allowed within a period of six months from the date of the meeting

(xii) No notice of motion under this rule shall be allowed within six months from the date of assumption of office by the President or the Vice-President or the Treasurer or any officer of the committee.]

CASE LAWS

ELECTION OF OFFICE BEARERS

There has to be an elected Chairman Co-operative Societies Rules, 1969 (Kerala), Rule 43 (1) and 5 – Bye-law providing that Chairman of Mini Estate Society shall be the Chairman – Is repugnant to R.43 – There has to be an elected Chairman – Co-operative Societies Act, 1969 (Kerala), S.28.

It is true that Clause19 (5) of the bye-law states that the second respondent has to be the Chairman of the Managing Committee. But this is practically against R.43 of the Kerala Co-operative Societies Rules which says that the Chairman has to be elected. Further R.5 of the Kerala Co-operative Societies Rules says that any bye-law of the society shall not be contrary to the provisions of the Act or Rules. In the light of the above facts, Cl.5 of bye-law 19 is illegal. If that be so, the petitioners are legally correct in electing one among as the President. The supersession order is merely on the basis of that petitioners are acting against the bye-laws is not correct.

2000 (2) KLT 246 Narayanan v/s Trichur District Mini Industrial Estate Co-operative Society

The express mention of election of a chairperson would only mean that chairperson cannot be appointed otherwise than by election Article 243 C (5) - The maxims "expressum facit cessare tacitum" (a thing expressed puts to an end tacit implication) and "expressio unuisestt exclusion alterius" (express mention of one thing implies the exclusion of another) cannot be extended as to the method of disqualification or removal of the chairperson elected. Whenever a statute limits an end to be done in a particular form if it necessarily includes negative, namely that the thing shall not be done otherwise i.e. the chairperson can be appointed only by election.

AIR 1999 Ker 293 Jose Augustine and another v/s State of Kerala and others

A resolution passed on a subject not included in the agenda would be good only if all the members of the committee are present at the meeting and if all of them waived the formality of a notice Rule 43 - Notice regarding election of Vice-President not given to all members and election held - Validity - A resolution passed on a subject not included in the agenda of a meeting would be good only if all the members of the committee are present at the meeting and if all of them waived the formality of a notice.

Rule 43 requires that the election should be done in a particular manner as prescribed under Rule 43 every member of the board should have been put on notice so that they will be able to contest and exercise their right to elect the Vice-President. In the absence of a specific notice to all the members, the meeting convened for some other purpose cannot be permitted to take up the item of election abruptly without notice to the members and proceed with the election. Apart from the fact that an adjourned item cannot be automatically be taken up in the next meeting in so far as the election of the Vice-President is concerned, it cannot be done simply for the reason that the procedure has been laid under Rule 43 and that opportunity should be given to all the members in reference to the election. *In this judgment* **AIR 1954 SC 217 Vice Chancellor v/s S.K. Ghosh, 1977 KLT 80 Kodivathur Panchayat v/s District Panchayat Officer, Calicut** *and* **ILR 1964 (2) Mad. 22 Muthukumaraswami Pillai v/s Muthukatha Pillai and another** *are relied on.*

1996 (2) KLT 942 = 1996 (2) KLJ 289 N.Sudharsanan v/s State of Kerala and others

Voting right of a nominated member Section 31 - Kerala Co-operative Societies, Rules, 1969, Rule 37 - Nominated member in the committee of Apex Societies have right to vote at the election of office bearers of the Society.

1994 (2) KLT 80 = 1994 (3) ILR 837 = 1994 (1) KLJ 819 Kumaram v/s State of Kerala

Sub-rule (6) to (9) of Rule 43 is not ultra vires Co-operative Societies Rules, 1969 (Kerala) - Rule 43, Sub-rule (6) to (9) - Not ultra vires.

ILR 1993 (2) Ker 182 T.A. Sainudeen and another v/s State of Kerala and others

Election by show of hands is invalid The Rule 43 (6) makes no room for doubt that election should be held in utmost secrecy, in the present case the election was held by show of hands. If that be so, it can never be held that the election was held with secrecy as enjoined under Rule 43(6). When Rule 43 (6) mandated that election must be held with utmost secrecy, it cannot be ignored under any circumstances when Rule 43 (6) contemplates secrecy in the election, omission to mention the consequences of any contravention cannot be considered to be of any significance. When Rule enjoins a particular thing to be done in a

particular manner and if that Rule is mandatory in nature, it will have to be strictly complied with.

1992 (2) KLJ 831 = 1992 (2) KLT 829 = AIR 1993 (2) Ker 183 = ILR 1993 (2) Ker 182 T.A. Sainudeen and another v/s State of Kerala and others

Rule 43 (6) is not ultra vires The election of members of the committee by the general body of a society is enumerated under Section 109 (2) where as the election of the President and Vice President is not so stated and so the society need not adhere to R. 43 (6). Section 109 (2) (xxxviii) empower the Government to make rules for any other matter required or allowed by the Act to be prescribed. Election of the President and Vice president squarely comes under Section 109 (2) (xxxviii) It is beyond comprehension to hold that rule regarding election of President and Vice-President does not come under Section 109 (2) (xxxviii). Election of President and Vice-President alone cannot be left to the discretion of each Society when the Act deals comprehensively with all matters connected with the Society. This cannot be left to each Society to be decided by its own bye-laws. Uniform procedure is necessary and in that regard importance and significance of Rule 43 (6) cannot be lost sight of merely because of the election of President and Vice-President is not specifically enumerated under Section 109 (2). It cannot be held that Rule 43 (6) is ultra vires.

1992 (2) KLT 829 = 1993 (2) ILR 182 = 1993 (3) KLJ 831 Sainudeen v/s State of Kerala

Election and Power to rescind resolutions Rule 176 - The election of an office bearer of the society cannot be by a resolution passed by the committee. A Resolution has to be moved by one member and seconded by another. If it is opposed, the same has to be discussed and put to vote. The election stands on an entirely different footing. The proceedings of the meeting electing an office bearer is not a resolution capable of being rescinded by the Registrar under Rule 176 of the Rules.

1987 (2) KLT 357 = 1987 (2) KLJ 1105 = 1988 Co. Cases (64) 82 Kurien v/s Joint Registrar

Interference by court at intermediate stage before election is over is not proper Petition under Article 226 of the Constitution challenging the election for non-compliance with rules. Interference by court at intermediate stage before election is over is not proper.

1975 KLT SN 61 SC Nanhoo Mal v/s Hira Mal

REMOVAL OF OFFICE BEARERS

In the absence of a specific provision there can be no noconfidence motion Rule 43 - In the absence of a specific provision, the Managing Committee has no right to move or consider a motion for loss of confidence in the President, Vice President or Treasurer or any other office bearer of the Managing Committee elected in accordance with Rule 43 of the Rules.

The doctrine of 'casus omissus' is squarely applicable to the situation. It is not for the court to supply what is an omission in the statute. The Court must interpret the provision as they are without adding anything. In the absence of a specific provision in the Kerala Co-operative Societies Act, 1969, the Rules framed thereunder and the bye-laws of a Co-operative Society, the Managing Committee has no right to move or consider a motion for loss of confidence in the President, Vice President or Treasurer or any other office bearer of the Managing Committee elected in accordance with Rule 43 of the Rules. *In this judgment* **1999 (3) KLT 680** *is affirmed,* **1982 KLT 602, 1990 (1) KLT 374** *and* **2000 (1) KLT 319** *are overruled,* **AIR 1972 AP 349** *is dissented from,* **ILR 1975 AP 242, AIR 1982 Bom 216 and AIR 1991 P&H FB** *are relied on and* **AIR 1975 Del 200, 1916 (1) CD 532** *and* **2001 (3) SCC 735** *are referred to.*

2002 (2) KLT 782 = ILR 2002 (2) Ker 325 DB Lakshmanan v/s Velliankeri

Bye-law providing that Chairman of Mini Estate Society shall be the Chairman is repugnant to Rule 43 Co-operative Societies Act, 1969, (Kerala) - Section 28 – Bye-law providing that Chairman of Mini Estate Society shall be the Chairman – is repugnant to R.43 – There has to be an elected Chairman – See – Co-operative Societies Rules. 1969 (Kerala), Rr.43(1) & 5.

2000 (2) KLT 246 Narayanan v/s Trichur District M.I.E. Co-operative Society

There can be a no-confidence motion Co-operative Societies Act, 1969, (Kerala) - Section 33 (1), (3), and 30(4) – There can be a no-confidence motion which would be discussed in the committee of a primary society.

The fact that it is provided in S.31(3) of the Act that a person nominated to the committee of an apex or central society shall not take part in the discussion of any no confidence motion or vote on any such motion itself would indicate that the intention of the legislature is that there can be no confidence motion which could be moved in the committee of an apex or central society. A reading of the provisions of the Act will not disclose any intention of the legislature not to move a no confidence motion in the committee of a primary society. As can be seen from the various provisions in the Act the legislature never intended that there should not be any no confidence motion in the committee of a primary society. On the other hand, the intention of the legislature is that there can be no confidence motion in the committee of an apex or central society or a primary society. So even without taking recourse to S.16 of the General Clauses Act, it can be concluded that there can be a no confidence motion which could be discussed in the committee of a primary society. *In this judgment* **1982 KLT 602, 1990 (1) KLT 374, ILR 1975 And 242, AIR 1972 AP 349** *and* **1991 P & H 149** *are referred to.*

2000 (1) KLT 319 Velliankeri v/s General Manager

There is no provision for moving a no-confidence motion Co-operative Societies Rules, 1969 (Kerala), Rule 43 – There is no provision for moving a

no-confidence motion under the Act and Rules – There cannot be an implied power to move such a motion – S.16 of the General Clauses cannot apply.

S.16 of the General Clauses Act cannot be made applicable. Since there is no provision for moving a no confidence under the Act, Rules or Bye-laws, there cannot be an implied power to move such a motion. Another contention was raised with regard to the removal of the Directors under the Companies Act. We are afraid, we cannot refer to the provisions of the Companies Act, because S.107 of the Co-operative Societies Act says that the provisions of the Companies Act, 1956 shall not apply to any Co-operative Society. Another argument that was advanced was that in Common Law, the body which selects a person is entitled to remove the same person. We are afraid, whether we can apply the principles of Common Law in the present case because of the following observations of the Supreme Court in Superintendent and Remembrancer of Legal Affairs, West Bengal v/s. Corporation of Calcutta,AIR 1967 SC 997. *In this judgment* **1982 KLT 602 Narayanan Nair v/s Joint Registrar** *and* **1990 (1) KLT 374 Gregory v/s Secretary Manimala Service Co-operative Bank Ltd** *are overruled,* **ILR 1975 And 242 Veeramachaneni Venkata Narayana v/s The Deputy Registrar of Co-operative Socieites, Eluru, AIR 1982 Bom 216 Hindu rao v/s Krishnarao** *and* **AIR 1991 P&H 149 Jagdev v/s The Registrar of Co-operative Socieites Haryana and others** *are relied on,* **AIR 1972 Delhi 91 Mohan Chandra v/s Institute of C.A., India, AIR 1974 Delhi 200 Bar Council of Delhi v/s Bar Council of India, AIR 1968 SC 292 Bool Chand v/s Kurukshetra University** *and* **AIR 1975 SC 641 Union of India v/s Gutbakesh Singh and another** *are distinguished,* **AIR 1950 FC 140 Rayarappar v/s Kutoor Vengayl Valia Madhavi Amma and others** *and* **1999 (3) KLT 48 Thampanoor Ravi v/s Charupura Ravi and others** *are referred to and* **AIR 1972 AP 349 N. Venkataratnam Naidu v/s District Collector Nellor** *is dissented from.*

1999 (3) KLT 680 = ILR 2000 (1) Ker 716 DB Chacko v/s Jaya Varma

Provision cannot be interpreted to mean that elected person shall not be removed from office Constitution of India - Article 243 C (5) – Scope – Chairperson Election of Panchayat – Provision as to – Cannot be extended or interpreted to mean that elected person shall not be removed from office.

AIR 1999 Ker 293 DB Jose Augustine v/s State of Kerala

Act precludes the nominated members from voting on non-confidence motions Section 31 - Section 31 (3) of the Act precludes the nominated members from voting on non-confidence motions. Nominated members are not restrained from voting on any other matter in regard to the affairs of the society. Under Rule 37(2), nominated members are equated with the elected members in all matters including right to vote except where it has been expressly excluded.

ILR 1994 (2) Ker SN 30 =1994 (1) KLJ 819 = 1994 (2) KLT 80 E. V. Kumaran and another v/s Government of Kerala and others

Section 105 is not applicable in failing to follow secret ballot system Section. 105 - Provisions of Section 105 is not applicable to cases where the elections of a President and Vice President is held in disregard to Rule 43(6) of Co-operative Societies Rules by failing to follow secret Ballot system.

1992 (2) KLT 829 = 1993 (2) ILR 182 = 1993 (3) KLJ 831 Sainudeen v/s State of Kerala

Managing committee has power to elect and remove the President Rule 43 - The Managing Committee which has the power to elect a President equally has the power to undo their action by cancelling the appointment in appropriate proceedings. Such an action is recognised in Section 16 of the Interpretation and General Clauses Act.

1990 (1) KLT 374 = 1990 (1) KLJ 279 Gregory v/s Secretary, Manimala Service Co-operative Bank

Managing committee who elected a person as the President can remove him Co-operative Societies Rules, 1969 (Kerala) - Rule 43 - Managing committee who elected a person as the President can remove him by passing a non-confidence motion. *In this judgment* **ILR 1975 Andh 242 Veeramachanemi Venkata Narayana v/s The Deputy Registrar of Co-operative Societies, Eluru** *is referred to.*

ILR 1983 (2) Ker 132 = AIR 1983 Ker 136 = 1982 KLT 602 Narayanan Nair and another v/s Joint Registrar of Co-operative Societies and others

Member of the Society has no locus standi to challenge the removal of the president Co-operative Societies Rules, 1969 (Kerala) - Locus Standi - Member of the Society has no locus standi to challenge the removal of the president by a motion carried by a majority of the number of members of the committee. *In this judgment* **AIR 1982 SC 149 S.P. Gupta and others v/s President of India and others** *is referred to.*

ILR 1983 (2) Ker 132 = AIR 1983 Ker 136 = 1982 KLT 602 Narayanan Nair and another v/s Joint Registrar of Co-operative Societies and others

The bye-laws of a registered society may provide for election or removal of the President or members of a Committee Such bye-laws, subject to the provisions of the Act and Rules, have to be followed in holding meetings and conducting proceedings. Where the bye-laws of a registered society stipulate that at least three days' notice should be given in cases of meeting specially convened and the notice should specify the subject to be brought before the meeting, failure to follow the bye-law will invalidate the meeting.

(Madras Co-operative. Societies Act (53 of 1961), Sections 20, 26, 27, 28 and Rule 30 of the Co-operative Societies Rules, 1963)

1966 (2) MLJ 366 = 79 Mad LW 711

RULES

R38. Constitution of committee, resignation and removal from membership :- [*When a committee is constituted under Section 28, the Secretary or the Chief Executive or any other officer discharging the functions of the Secretary or the Chief Executive shall, within one week from the date of the constitution of the committee convene the committee to elect its President and other office bearers. The Committee so convened shall elect its president and other office bearers and also by resolution authorise the officers concerned to take charge from the outgoing office bearers.]

(2) A report showing the names and addresses of the members of the committee which has taken charge and date on which they took charge shall be sent to the Registrar, Financing Bank and Circle Co-operative Union by the President of Society, within a week of their taking charge.

(3) Any member of a committee, whether elected or nominated may tender his resignation to the President of the committee.

(4) The President, on receipt of a resignation, shall within seven days from the date of receipt thereof place it before the committee of the society for consideration if the member is an elected person or send it to the authority who nominated the member, if he is a nominee. The resignation shall have effect only from the date of its acceptance by the committee or the authority who nominated the member concerned as the case may be. The fact of its acceptance or otherwise shall also be communicated to the member concerned. In the case of nominees the fact of acceptance or otherwise shall be communicated to the society also

(5) [**Casual vacancy of an elected member] of the committee shall be filled up by election in the manner provided in the rules. In the case of nominated members the vacancies will be filled up by fresh nomination subject to the provisions in Rule 37.

(6) Where the President desires to tender resignation the letter of resignation shall be placed before the committee for consideration.

CASE LAWS

Due to resignation if remaining members cannot constitute quorum

Section 33-- When vacancies occur by resignation of members the number of remaining members cannot constitute the Quorum of the meeting of committee.

When vacancies occur in the committee by resignation of the members and the number of remaining members cannot constitute the quorum for the meeting of the committee, the said provision can be pressed into service, It is clear from the Explanation

* Substituted by SRO 1317/90

**Substituted by SRO 845/92

that for the purposes of Section 33 (1) tendering of resignation by a member of the committee shall have the effect of terminating his membership from the committee. It is also to be seen that under Section 33 a resignation cannot be withdrawn since it takes effect simultaneously with the tender and there is cessation of membership. For the purpose of Section 33 (1) as observed above the act of resignation and its communication is sufficient. In the above circumstances I have no hesitation to hold that petitioners 2,3 and 4 have by their conduct of resignation paved way for action under Section 33 and the first respondent was justified in pressing into service the inevitable consequence under the Section since the remaining members cannot constitute the quorum for the meeting of the committee. *In this judgment* **1994 (2) KLT 238** *and* **1974 KLT 189** *are referred to.*

2002 (2) KLT 730 = 2002 (2) KLJ 274 Baby Chemparathy v/s Joint Registrar of Co-operative Societies

Oral resignation of the president can be accepted R.38 (6) - R.38 applies to resignation from membership of the Committee- R.38(6) will not apply when resignation is merely from the office of the President - Oral resignation can be accepted, when there is no stipulation contrary.

The World Book Dictionary' gives the meaning of the word 'resignation' as follows: 'the act of resigning' 'a written statement giving notice that one resigns'. In the Dictionary of Law' by L.B. Curzon, resignation is defined as "The deliberate relinquishment of some position or office'. In 'Black's Law Dictionary'-Centennial Edition, the word 'resignation' is stated as 'Formal renouncement or relinquishment of an office. It must be made with intention of relinquishing the office accompanied by act of relinquishment'. In Halsbury's Laws of England, Fourth Edition, Volume 9 at Page 643, the meaning of the word 'resignation' is as follows: " A counter coroner may resign office by giving notice in writing to the council having power to appoint his successor, but the resignation does not take effect unless and until it is accepted by the council. This does not affect the powers of the Lord Chancellor or of any competent court with respect to the removal of coroners'. In so far as S.38(6) of the Kerala Co-operative Societies Rules does not apply, the conditions incorporated under the Rules cannot be taken into account. The intention behind the stipulation in writing is more in regard to the evidence of the act of resignation. But that does not mean that when there is no stipulation to the contrary resignation cnnot be made orally. *In this judgment* **1931 (2) Ch. 409 Shacklton on the Law and Practice of Meetings 7th Edition Page 85** *is relied on.*

2000 (2) KLJ 837 = 2001 (1) KLT 262 Thomas Antony v/s Additional Registrar of Co-operative Societies and others

Tendering of resignation will have the effect of terminating membership Section 33 (1) - Withdrawal of resignation has no authority - Tendering of resignation will have the effect of terminating membership from the committee.

The consistent view taken by this court in all the decisions quoted above is that tendering of resignation will have the effect of terminating membership from the committee. This is also clear from the Explanation to S.33(1) of the Act. The learned Government Pleader also brought to my notice the unreported judgment in **O.P.No.13060** of **1998** and connected cases where a learned Single Judge of this court took note of the decision in **Varma v/s Joint Registrar 1994(2) KLT 238**. It is stated that though sub-r.(4) of R.38 requires the President to place the resignation before the committee for consideration, the committee has no role to play in the matter of acceptance or nonacceptance of the resignation, inasmuch as it takes effect on its being tendered to the President. In the light of the above statement of law, the continuance of the first petitioner in the managing committee does not seem to be according to the Act and the Rules. *In this judgment* **1994 (2) KLT 238** *and* **1987 (2) KLT 420** *are followed.*

2001 (1) KLT SN 12 P 10 = ILR 2001 (1) Ker 62 Thomas v/s Jaihind Powerloom Industrial Co-operative Society Ltd

Voluntarily given up membership Words and Phrases – "Resignation " and "Voluntarily given up membership" – Meaning of.

2000 (2) KLJ 451 DB Shajahan v/s Chathannoor Grama Panchayat and others

Tendering of resignation Tendering of resignation will have the effect of terminating membership from the committee. This is also clear from the Explanation to Section 33 (3) of the Act. *In this judgment* **1987 (2) KLT 420 Varma v/s Joint Registrar** *and* **1994 (2) KLT 238 Sadasivan v/s Joint Registrar** *is referred to.*

OP No. 13060 *of* **1998**

Mode of resignation of committee member is to tender it to the President Section 33 (1) - The only permitted mode of resignation of a member of a committee is to tender it to the President, except in the exceptional circumstances. Rule 38(3) is mandatory - Co-operative Societies Rules, 1969 (Kerala). Rule 38 (3). *In this case* **1987 (2) KLT 420 Varma v/s Joint Registrar** *is referred to.*

1994 (2) KLT 238 = (2) KLJ 230 Sadasivan v/s Joint Registrar

Unless Registrar acts, remaining members continue to be committee members Rule 33 (1) - By resignation, the number of members getting reduced below the quorum - Unless and until the registrar acts in the manner provided in Section 33 the remaining members of the Committee do not cease to be members of that committee. *In this judgment* **1987 (2) KLT 420 Varma v/s Joint Registrar** *is distinguished.*

1994 (2) KLT 238 = 1994 (2) KLJ 230 Sadasivan v/s Joint Registrar

Member cannot withdraw resignation The explanation to Section 33 (1) states that the tendering of resignation by a member of the committee shall have the effect of terminating his membership from the committee. As to how he should tender his resignation is laid down in Rule 38 (3) normally that it should be tendered to the President of the Committee. As soon as the resignation is tendered it takes effect and

the member ceases to be a member of the Committee. Though sub rule (4) requires the President to place the resignation before the Committee for non acceptance of the resignation, in as much as it takes effect on its being tendered to the President. The only permitted mode of resignation of the member of a committee is to tender it to the President, except in the exceptional circumstances postulated.

That being so the member cannot go back on his resignation in so far as the resignation invites action under section 33 (1) of the Act. He could not have withdrawn the resignation so as to get over the effect of termination of his membership for the purpose of Section 33 (1) of the Act.

1987 (2) KLT 420 Varma v/s Joint Registrar

When president is removed resignation can be sent to Joint Registrar President removed by no-confidence motion - Later from out of seven members resigning - Resignation sent to Joint Registrar since there was no President, where the tender of resignation creates a situation inviting action under Section 33 (1) of the Act, sub-rule (4) of Rule 38 Rules cannot have any effect.

1987 (2) KLT 420 Varma v/s Joint Registrar

The consideration of a resignation before the committee is not an empty formality Co-operative Societies Rules, 1969 - The consideration of a matter before the committee is not an empty formality. The final decision is based on the interaction of the views expressed in the committee which has considerable effect in swaying the views of that collective body, one way or the other. When the rules provide for the manner in which the resignation has to be tendered, that has necessarily to be complied with. It is not enough that the resignation letter is submitted to some person or sent to some place. A meticulous satisfaction of the requirement of a valid tender of resignation has to be insisted upon in the larger interest of the Society and from the point of view of the Act.

1985 KLJ 335 P Mohammed & Others v/s The Joint Registrar of Co-operative Societies, Cannanore and Others

Non-compliance with every step does not invalidate resignation Co-operative Societies Rules, 1969 (Kerala) - Rule 38 (3) and (4) - Submission of resignation by a member of the committee to the President – Sub rules (3) and (4), between them, provide for the whole process of resignation, from tender to acceptance. Non-compliance with every step does not invalidate resignation. Sub-rule (3) is nothing more than a procedural provision.

ILR 1974 (1) Ker 114 DB Deputy Registrar of Co-operative Societies and another v/s P. K. George

Nominating authority can accept resignation of the nomined member The right of accepting the resignation, in the case of nominated member, is in the authority who nominated him and clause (4) of Rule 38 provides that the resignation shall be placed before that authority and shall be effective only from the date of acceptance by such authority. It is clear therefore that the President to whom the resignation is to be

tendered is a mere conduct pipe for transmitting the same to the authority who is to accept the resignation, and on whose acceptance alone the resignation is to become effective.

1974 KLT 189 = ILR 1974 (1) Ker 114 DB Deputy Registrar of Co-operative Society v/s P.K. George

RULES

[*R**39. Election and term of the members of the Committee :-** (1) The bye-laws of every society shall provide for the term of its Committee.

(2) Notwithstanding anything contained in the bye-laws, for the purpose of calculating the term of a Committee, year shall be taken to be a period of twelves months from the date of assumption of office by the Committee. All the members of the Committee (including those elected in causal vacancies) whether representing societies or individuals shall vacate their office on the expiry of the term of the Committee irrespective of the date on which they were elected as member of the Committee.

(3) The election of all the members of the Committee shall be held before the expiry of the term of office of the existing Committee]

CASE LAWS

General body rejects amendment extending term of committee S.28 – Rejection of proposed amendment by General Body – Amendment to the bye-laws extending the term of Managing Committee before expiry of the period – Benefit of extension is available to existing Board of Directors.

When the period had been extended before the expiry of the period, the benefit of the extension was available to the existing Board of Directors also. The Joint Registrar, after careful examination held that the Board of Directors were entitled to the benefit of the amendment.

2003 (1) KLT 675 John v/s Amballur Service Co-operative Bank

General Body may pass a resolution extending term of committee if there is bye-laws provision Where the Bye-law provides for a term of 5 year before the commencement of Act 1 of 2000, the alternative of amending the relevant Bye-law does not apply to these societies, as the Bye-laws had already provided a term of 5 year for the Managing Committee to be in office, the other mode of enabling in the Managing Committee to continue beyond the term for which it was elected would have been by the General Body passing a resolution before the expiry of its term of the 3 years conferring the power on the Managing Committee to continue for a further period of 2 years or authorizing it to continue for a term of 5 years from the date of assumption of office

OP No. 29205/2001

*Substituted by SRO 845/92

Amendment of bye-law necessary Section 28 (1) & 3rd Proviso (As amended by Act 1 of 2000) - Term of Managing Committees of Co-operative Societies constituted before the commencement of the amendment is not automatically extended to 5 years- They will get the benefit only if the bye-law is amended enhancing the term of five years and conferring the right to the existing managing committee- Bye-law is amended enhancing the term of five years and conferring the right to the existing managing committee- Bye-laws should be amended before the expiry of the term of 3 years.

The proviso which provides that it shall be eligible for the managing committee to continue for a period to five years, it has to be noted that it only confers eligibility. The proviso does not provide that a committee constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999 shall continue for a period of five years. It merely makes that committee eligible to continue in office. That eligibility has necessarily to be in terms of the bye-laws of the society. In these cases, there were no valid amendments of the bye-laws before the expiry of the term of the managing committee concerned. Of course, in some cases an attempt was made to have an amendment of the bye-laws which was not accepted in terms of Section 12 of the Co-operative Societies Act and hence could not take effect. In that situation, it could not be taken that any valid resolution had been passed in that behalf by the concerned society to extend the term of its managing committee to five years as permitted by Section 28 (1) of the Act as amended by Act 1 of 2000.

2001(2) KLJ 400 DB Thopramkudy Service Co-operative Bank Ltd v/s Assistant Registrar of Co-operative Societies

Resolution or bye-law amendment necessary Unless resolution is passed or the Bye-laws of the Society is amended extending the term to 5 years, the existing Managing Committee could not continue beyond 3 years.

OP No. 6106/2000 *This judgment was affirmed in* **WA 1543/2000**

Term of Committee cannot exceed three years if the bye-laws provide so Co-operative Societies Act, 1969, (Kerala) - Section 28 (As Amended by Act 1 of 2000) – As long as the bye-laws provide for a term of only 3 years for the Managing Committee, it cannot be allowed to continue for more than 3 years by virtue of the amendment.

As long as the bye-laws provide for a term of only three years for the Managing Committee, it cannot be allowed to continue for more than three years by virtue of the enabling provisions contained in Act 1 of 2000.

2000 (2) KLT 730 = 2000 (2) KLJ 36 Radhakrishna Pillai v/s Assistant Registrar

Extension of the term of an expired Committee amounts to giving power through back door Co-operative Societies Act, 1969, (Kerala) - Section 33 – Election not conducted due to non-co-operation of managing committee – Members of the managing committee whose term had already expired cannot be permitted to continue

as administrative committee, which would only amount to giving power through back door.

Under S.33 of the Act, power is given to the Registrar of Co-operative Societies to appoint, after intimating the Circle Co-operative Union, a new committee consisting of not more than 3 members of the society; or one or more administrator or administrators, who need not be a member or members of the society, to manage the affairs of the society for a period not exceeding 6 months as may be specified in the order, which period may be extended from time to time at the discretion of the Registrar, for reasons recorded in writing, under the contingencies enumerated in the said Section. *In this judgment* **1999(1) KLJ 885 District Industries Centre v/s Kaithari Neithu Sahakarana Sangom** *and* **1994(2) KLJ 795 Board of Directors Kottappady Service Co-operative Bank v/s Joint Registrar** *are referred to.*

1999 (3) KLT 139 = 1999 (2) KLJ 529 DB Joint Registrar v/s Chatha

Committee has no right to continue in office after the expiry of its term Co-operative Societies Act, 1969, (Kerala) - Section 28 (1) – Co-operative Societies Rules, 1969, R.39 – Managing Committee has no right to continue in office after the expiry of its term till the new committee takes over charge.

The effect of the order would be to permit the managing committee whose term has already expired to continue in office and therefore the said direction issued by the learned single Judge is liable to be set aside. We are in respectful agreement with the aforesaid rule down by the Division Bench in W.A. 1287/92 and W.A. Nos.626 & 633/99 and the judgment reported in 1994 (2) KLJ 795. We therefore set aside that part of the order of the learned single Judge permitting the present managing Committee to continue in office till the election is over. *In this judgment* **1994 (2) KLJ 795 Board of Directors of Kottappady v/s Joint Registrar and others** *is relied on.*

1999(1) KLJ 885 DB District Industries Centre v/s Kaithari Neithu Sahakarana Sangam

Continuance in office based on the notifications subsequently found invalid Section 28 (1) - Board of Directors continued in office after the expiry of their term in the light of Government notification dated 11-8-1995 and 6-11-1995 extending their term-Continuance in office based on the notifications subsequently found invalid - Till the notification is cancelled they were legally entitled to exercise all the powers as though they are members of the Board of Directors - All action taken by them cannot be considered to be void or non est and are to be treated as de jure.

In the instant case the previous Board of Directors was duly elected by the members of the society. As per the provisions of the bye-law and the Act their term was three years. That three years period was extended by notification issued by Government. Consequently they continued to be in office. They exercised the duties as members of the Board of Directors in public interest and not for their personal benefit. They were exercising in jurisdiction defacto as members of the Board. Such action taken by them cannot be considered to be void or non est when it is found that

the notifications issued by the Government are invalid. The previous Board's actions, in the instant case are to be treated as de jure.

1996 (1) KLT 669 = 1996 (1) KLJ 239 = ILR 1996 (2) Ker 253 George Abraham v/s Assistant Registrar of Co-operative Societies

Notification directing term three years shall be read as three years and six months Sections 28 (1) and 101 - Notification directing that the term three years specified in Section. 28 (1) shall be read as three years and six months - The notification has no application to a committee already constituted by the general body of a society, unless such general body wants to refix the period.

It was open to the general body to fix the duration of the committee for a lesser period i.e., six months or one year or two years or even three years, but not more than three years. The above power conferred on the general body could be exercise either at the time of constituting the committee for such primary societies upto 31/2 years. This alone is the utility of the notification. The impugned notification has no application to a committee already constituted by the general body unless such general body wants to refix the period. The notification would apply to the general body which is yet to constitute a managing Committee and in such case general body can fix the duration for the committee upto 3 1/2 years.

1996 (1) KLT 199 = 1996 (1) KLJ 92 = AIR 1996 Ker 210 Joseph Zanchria and another v/s State

Provision enabling the Registrar to extend the term of a committee was deleted w.e.f. 14-9-1992 The existing managing committee has no right to continue in office beyond the date of expiry of its tenure. If a new committee is not constituted before the expiry of the term of the existing committee, provision has been made in Section 33 of the Act to avoid administrative stalemate in the society and to ensure proper management of the affairs of the society. It can be seen that the statute does not contemplate the extension of the term of the committee prescribed by the bye-laws of the society under any circumstance. It is significant that Rule 39 of the rule had contained a provision enabling the Registrar to extend the term of a committee until such time within which the election should, in his opinion, be held but the said provision was deleted w.e.f. 14-9-1992. These statutory provisions cannot be bypassed.

1994 (2) KLJ 795 Board of Directors of Kottappady Service Co-operative Bank v/s Joint Registrar

year and term of committee Co-operative Societies Act, 1969 (Kerala) - Sections 2 (4) and 28 - "Year" means the period commencing on first day of July of any year and ending with 30th June of the succeeding year of a registered Society – Maximum period of a committee is three years.

ILR 1993 (2) Ker 618 = 1992 (2) KLJ 972 =1993 (1) KLT 103 Kammukutty v/s Joint Registrar of Co-operative Societies and others

If the term of Managing Committee is specified in bye- law, that date of expiry should prevail Co-operative Societies Act, 1969 (Kerala) - Section 28 (1) and Rules 39 - Combined effect – Constitution of managing committee and its term of office - If the term of Managing Committee is specified in bye- law, that date of expiry should prevail – If the expiry date is not specified, it shall be 30th June of that year in which term expires.

ILR 1993 (2) Ker 618 = 1992 (2) KLJ 972 = 1993 (1) KLT 103 Kammukutty v/s Joint Registrar of Co-operative Societies and others

Date of expiry of the period of society is fixed by the bye-laws Rule 39 & Explanation - Held the date of expiry of the period of society is fixed by the bye-laws and it is not as per the Acts or Rules. Bye-laws prevail and the explanation has no application.

1993 (1) KLT 103 = 1993 (2) KLJ 972 = 1993 (2) ILR 618 Kammukutty v/s Joint Registrar

Rule 39 has to be read reasonably and not so as to lead to absurdities Rule 39 - Term of the new managing committee to commence on 1.7.1989. The committee took charge on 30.6.1989 - Since the term is to commence on 1st July the assumption of office earlier is liable to be ignored in the computation of the term. Admittedly the managing committee was elected only for the term commencing from, 1.7.1989. The term of the erstwhile managing committee continued till the midnight of 30.6.1989 after which alone the term of the present managing committee commenced. Rule 39 has to be read reasonably and not so as to lead to absurdities. The mandate of the General Body is what is important in such cases and not what the managing committee purported to do. That has to be complied with and if so, the term of the Managing committee commenced only on 1.7.1989, the assumption of office earlier, for purpose of convenience being liable to be ignored in the computation of the term.

1992 (2) KLJ 384 Board of Directors, P.U.C. Bank Ltd v/s Joint Registrar and others

Determining the period of elected body of the Co-operative Society as three years held valid The Kerala Co-operative Societies (Amendment) Ordinance, 1992 (replaced by Act 5 of 1992) determining the period of elected body of the Co-operative Society as three years held valid - The legislature alone can determine what should be the period and even if it appears to be arbitrary in one sense, it may not give ground to declare the provisions as invalid as violative of Article 14.

OP No. 1812/92 A. Ali Hassan Kilimanoor Co-operative Agricultural Rural Development Bank v/s State

The entire provision together with the explanation should be understood as a whole Rule 39 (1) Explanation - If an explanation is added to a provision, it is indicative of the legislative intention that the entire provision together with the explanation should be understood as a whole. An explanation added to a

statutory provision is not a substantive provision but it is merely meant to explain or clarify certain ambiguities which may have crept in the statutory provision. Explanation to Rule 39 (1) of the Rules is valid.

1990 (2) KLT 679 = 1991 (1) ILR Ker 508 = 1991 AIR Ker NOC 35 Kesari v/s State of Kerala

Where a definite date is fixed for the expiry of the term, the period ending with the said date for the first time will be taken as the first year of the term Rule 39 : Section 28 of the Act provides for the constitution of a Committee in accordance with the bye-laws of the Society. Rule 35 stipulates that atleast 50 days in advance of the expiry of the term of a Committee, resolution shall be passed fixing the time, date and place for the conduct of election to the new committee. Rule 39 provides only for cases where no definite date is fixed for the expiry of the term of office of the committee. If, on other hand, the date of expiry is fixed by the bye-laws, the term of the committee has to be computed with reference to the year of the Society. The first "Year" of the committee will be the period from the date of assumption of office till the expiry of that year of the Society, even if it be less than one full year. Thus if the year of the Society is January-December, the first year in office should be deemed to end with the 31st of December of the year irrespective of the date on which the committee assumed office. Where a definite date is fixed for the expiry of the term, the period ending with the said date for the first time will be taken as the first year of the term, and the term of office be reckoned accordingly.

1988 (2) KLT 756 = AIR 1989 Ker 236 Tirur Service Co-operative Bank v/s Joint Registrar

If the bye-law provides term of copmmittee to end in December, it means that term will expire on 31st December of the fifth year Co-operative Societies Act, 1969 (Kerala) - Sections 28 and 33 - When the bye-law of a Society lays down that the term of the managing committee shall commence from January and end in December, it means that term will expire on 31st December of the fifth year. This is so because the term is fixed as five years, and from January to December, and it can be fulfilled only by treating the 31st December as the date on which the committee will lay down office. If such a definite date is provided by the bye-laws, Rule 39(1) does not operate. The Committee is therefore entitled to continue in office till the date fixed by the bye-laws, and is not bound to lay down office on the 30th of June.*In this judgment* **AIR 1982 SC 831 Sri Ram Pyare Choudhary v/s State of UP** *is distinguished and* **1987 (1) KLT 791 Mohammed Basheer v/s State of Kerala** *is followed.*

1988 (2) KLT 548 = 1988 (2) KLJ 380 = 1989 (1) ILR 333 Malanadu Service Co-operative Bank Ltd v/s State of Kerala

The term of office commences not on the date of election but on the date of assumption of office Rule 39 - A managing committee's right to assume office must arise before its term could start running. The period cannot commence at a

time when the previous committee is validly in office with its term yet to expire. There cannot be two managing committees in office at the same time. It has also to be noted that bye-laws 33 requires election to be held before the expiry of the term of the managing committee, i. e. before December 31. In every election therefore, there will necessarily be a gap between the date of election and the date of expiry of the term of the existing managing committee contention be correct that truncated period will be the first year of the newly elected committee, even though they cannot assume office and cannot function during the period, In consequence, the effective life of a managing committee will be reduced to four years (as against five years for which it is elected). The term of office commences not on the date of election but on the date of assumption of office.

1988 (2) KLT 548 = 1988 (2) KLJ 380 = 1989 (1) ILR 333 Malanadu Service Co-operative Bank Ltd v/s State of Kerala

The term of the committee shall expire on the 30th of June Rule 39 : 'Year' in Rule 39 refers to the calendar year in which the term of the committee expires. If the bye-laws of the Society do not prescribe a fixed date of expiry of the term, the term of the committee shall expire on the 30th of June, the committee can continue in office till 30th June. If on the other hand, the term expires on a day after 30 June, the term of the committee gets curtailed and it expires on 30th June. The contention of counsel for the petitioner that the committee can (in the latter class of cases) continue in office till the 30th of June following the expiry of the term of five years is not sustainable. *In this judgment* **1987 (2) KLT 791 Mohammed Basheer v/s State of Kerala** *and* **1985 KLT 136 Sadanandan v/s Joint Registrar** *are referred to.*

1988 (2) KLT 54 = 1988 (2) ILR 714 Kuttappa v/s State of Kerala

Year does not mean Co-operative Year Rule 39 (1) : 'Year' does not mean co-operative year. Rule 39 (1) does not fix the term of office of the elected members and thus does not prescribe the period during which the elected members should perform their functions, hold their office and enjoy its privileges. The term of office in Rule 39 (1) only deals with the date of expiry of the term of a committee elected to office and makes provisions for a uniform principle to be followed by all the societies governed by the same Act Rule 39 (1) does not deal with the commencement of the term which is left to the bye-laws. It does not deal with the year in which the term expires. That also is provided in the bye-laws. Therefore, the date of commencement of the term is not to be reckoned with reference to Rule 39 (1) but with reference to the relevant bye-law. The definition of the 'year' as Co-operative year cannot be improved to interpret Rule 39, because the context does not require a restricted meaning being assigned to the word. "Year" as a calendar year and limiting it got to a co-operative year. *In this judgment* **1985 KLT 136 Sadandan v/s Joint Registrar** *is approved and* **1987 (2) KLT 391 Vaddakkekara Service Co-operative Bank v/s Joint Registrar, 1987 (2) KLT 179 Koshi Mathew v/s Joint Registrar of**

Co-operative Societies *and* **1971 KLT 753 Hydrose v/s Deputy Registrar of Co-operative Societies** *are overruled.*

ILR 1988 (1) Ker 492 = 1987 KLJ 1146 = 1987 (2) KLT 791 DB Mohammad Basheer v/s State of Kerala and others

The term of office has to be reckoned on 30th of June Rules 39 (1) and 2 (u) - It is clear from the definition in Section 2 (u) of the Act that 'year' would mean the period commencing on the first day of July of any year and ending with 30th of June of the succeeding year. This can be called 'co-operative year' as distinct from calendar year. Third part of Rule 39 (1) refers to the date of expiry as 30th June. It is therefore clear that the year referred to is co-operative year which expires on the 30th of June. The term of office has to be reckoned on this basis. So also the commencement of the term and the end of the term. If the commencement of the term falls in a particular co-operative year, that year shall be regarded as first year of the term and on that basis the last year of the term has to be reckoned and the date of expiry shall be 30th of June of such last year.

1987 (2) KLT 391 = 1987 (2) KLJ 1026 Vadakkerkara Service Co-operative Bank Ltd v/s Joint Registrar of Co-operative Societies

Where the bye-law mentions that the term of the committee commences from the date of election Rule 39(1) - The bye law clearly mentions that the term of office of the committee shall be three years which will commence from the date of election and that it must be possible for the new committee to take charge when term of the old committee expires. If the period of termination and the term of commencement of the committee is also mentioned, there is sufficient specification of the date on which the term of office expires.

1987 (2) KLT 179 Koshi Mathew v/s Joint Registrar of Co-operative Societies

Without bye-law amendment term of 5 years won't operate Rule 39 (1) : Unless the general body amends bye-laws 33 and 35 so as to provide for a term of five years, the amendment cannot be recognised or approved or registered.

1987 (2) KLT 179 Koshi Mathew v/s Joint Registrar of Co-operative Societies

Bye-law amendment necessary Bye-laws regarding the term of elected Committee should be amended by general body and to be approved or registered.

1987 (2) KLT 179 Koshi Mathew v/s Joint Registrar of Co-operative Societies

If the exact date is not specified in the bye laws, the date of expiry shall be 30th of June The Constitution of the committee, as stated in Sub-section (i) of Section 28 of the Act is to be in accordance with the bye laws. The expiry of the term of office also must be laid down in the bye laws as made clear in Rule 39 of the Rules. If the exact date is not specified in the bye laws, the date of expiry shall be 30th of June of that year in which the term expires.

1985 KLT 136 = 1985 (1) KLJ 279 Sadanadan v/s Joint Registrar

The mere delay in taking over of charge by the new committee does not mean that the committee is not constituted Section 28 (1) - When the process of election is completed and members are elected, it shall be deemed that they are elected by the general body. The statutory provisions do not make any distinction between the election of a committee and its constitution. The mere delay in taking over of charge by the new committee does not mean that the committee is not constituted. The term of the committee does not depend on the date on which the committee takes charge.
1985 KLJ 279 = 1985 KLT 136 V. Sadanandan v/s The Joint Registrar of Co-operative Societies and another

RULES

R42. Constitution and strength of committee of societies having individuals and societies as members :- [*(1) Where the members of a society consist of both individuals and societies, the committee of the society shall consist of such number of individual members and members representing societies as may be fixed in the bye-laws.

(2)] The election of Members in the Committees representing individuals shall be made by the individual members only and election of Members of the Committee representing Societies shall be made by the delegates representing society members only.

* Substituted by SRO 510/69

RULES

[*R44A. **Delegate of Societies in the committee to another society to be members of the committee :-** The person appointed to represent a society in any other society and vote shall be a member of the committee of the society which he represents:

Provided that if the affairs of the society are managed by Administrator/ Administrators/Administrative Committee appointed under [**Section 28 or Section 32 or Section 33] of the Act, the person or persons so appointed shall have power to nominate any member of the society to be its delegate in the other society and such delegate shall be eligible [#to vote and] to be elected as a member of the committee of the other society in which he sits as a delegate if he is otherwise qualified to be a delegate under the relevant rules:

[#xxxx]]

R45. Disqualification of a member of a Society to be a Delegate of another Society- (1) No member shall be appointed to represent a society in any other society and vote if, on the date thirty days prior to the date fixed for a meeting for the conduct of any election relating to the Society.

(a) he is in default to the society of which he is a member in respect of any loan or loans taken by him for such period as may be specified in its bye-laws or in any case for a period exceeding three months; or

(b) he is a person against whom any decision award or order referred to in sub-section (3) of Section 70 has been obtained; or

(c) he is member of the other society in his individual capacity.

(2) Any member who has been appointed to represent a society in another society and vote shall cease to hold his appointment as such if he has committed default to the society of which he is member and if the default continues for the period prescribed in the bye-laws or in any case for a period exceeding three months or if any decision, award or order referred to in Section 70 has been obtained against such member.

R46. Term of office of member of committee who is delegate of another Society- A delegate of one society sitting on the committee of another society shall cease to be a member of such committee,-

(a) if the society which elected him as a delegate withdraws him or elects another delegate in his stead; or

(b) in case he was elected as a delegate by a society, on the supersession of the committee of such society under Section 32;

[**xxxx]

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* Inserted by SRO 1485/89
**Substituted by SRO 845/92
#Inserted by SRO 326/2003

(c) if the registration of the society, of which he is delegate, is cancelled, or

(d) if he incurs any disqualification mentioned in Rule 44, or

(e) if the society which sends him as delegate is in default to the society, in the committee of which he sits as a delegate:

[*Provided that in the cases of delegates of Primary Co-operative Agricultural Development Banks in the Committee of the Kerala State Co-operative Agricultural Development Bank and of Primary Housing Societies in the Committee of the Kerala State Co-operative Housing Federation Ltd; the disqualification shall apply only if the default exceeds six months.]

[**Provided further that in the case of delegates of Primary Agricultural Credit Societies in the Committee of the District Co-operative Banks, this disqualification shall apply only if the default exceeds ninety days;]

[#(f) if he ceases to be member of the committee of the society which he represented;

[##xxxx]

(g) if he was nominated as such by the Administrator/Administrators/ Administrative Committee under the proviso to Rule 44A, when an elected committee of the society which he represented enters upon office, unless he is one among the members of the committee which entered upon office.]

NOTIFICATIONS

Primary Agricultural Credit Societies and Primary Agricultural and Rural Develpoment Banks

Government of Kerala hereby exempt all Primary Agricultural Credit Societies and Primary Agricultural and Rural Develpoment Banks from the operation of sub-rule (e) of rule 46 of the said Rules for a period of one year from 9-4-2004.

SRO.No. 582/2004 G.O.(P) No. 132/2004/Coop dated 25-5-2004 K.G.Ex. Vol. 49 No. 1207

Primary Co-operative Housing Societies

Government of Kerala hereby exempt all Primary Co-operative Housing Societies from the operation of sub-rule (e) of rule 46 of the said rules for a period of one year from the date of this notification.

SRO.No. 906/2003 G.O.(P) No. 190/2003/Coop dated 30-9-2003 K.G.Ex. Vol. 48 No. 1809

Government of Kerala hereby exempt all Primary Co-operative Housing Societies from the operation of sub-rule (e) of rule 46 of the said rules for a further

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* Substituted by SRO 79/88

**Added by SRO 787/80

#Inserted by SRO 1485/89

##Omitted by SRO 845/92

period of one year on and from 1-10-2004
SRO.No. 997/2004 G.O.(P) No. 242/2004/Coop dated 20-9-2004 K.G.Ex. Vol. 49 No. 2005

NOTES

Rule 46 deals with the eventualities when a delegate ceases to be a member of the committee. When rule was framed clauses upto (e) was there subsequently proviso to the clause (e) was added and clauses (f) and (g) was inserted on 28-8-89. But on going through the clauses an "or" is seen missed between clauses (e) and (f), and (f) and (g); otherwise there will be some discrepancies.

CASE LAWS

Delegates meaning of Words and Phrases - "Delegation", " delegate" and "agent" meaning of.

It is an accepted position in law that no "delegate" to another is not to denude yourself. The word "delegation" implies that powers are committed to another person or body which are as a rule, always subject to resumption by the power delegating. The person delegating does not denude himself. Delegation is a sending away; a putting into commission; the assignment of a debt to another; the entrusting another with a general power to act for the good of those who depute him. the word "delegate" means little more than an agent. An agent exercises no power of his own but only the power of his principal. In general, a delegation of power does not imply parting with authority. The delegating body will retain not only power to revoke the power, but also power to act concurrently on matters within the plea of delegated authority except in so far as it may already have become bound by an act of its delegate. The word "delegate" has been stated to be a person who is chosen to vote or make decisions on behalf of a group of other people. If you delegate duties, responsibilities or power to some one, you give them those duties, those responsibilities, or that power so that they can act on your behalf. If you are delegated to do something you are given the duty of acting on someone else's behalf by making decisions, voting, or doing some particular work.

2005 (2) KLT SN 43 C 54 SC DB Iswar Singh v/s State of Rajasthan

A member of the Administrative Committee, if he is a member of the society is not subjected to any particular disadvantage to become a delegate Rule 44 A - A member of the administrative Committee of a society is eligible to be a delegate in any other society provided he is a member of that society.

The managing committee appoints only one among them as a representative and coming to the power of the Administrator/Administrators/Administrative Committee, any member of the society can be nominated. A member of the Administrative Committee, if he is a member of the society is not subjected to any particular disadvantage. *In this*

judgment **1996(2) KLT 117** *is distinguished.*

2002 (3) KLT 9 Subairkunju v/s Kerala Co-operative Election Commission

A delegate sent up by an Administrator in charge of the affairs of a primary society shall not be eligible to vote at the election Co-operative Societies Rules, 1969 (Kerala), R.44A - A delegate sent up by an Administrator in charge of the affairs of a primary society shall not be eligible to vote at the election of the Managing Committee of the apex society - Will only be eligible to be elected as a member of the committee of the apex society, if he is otherwise qualified.

R. 44 A provides that the person appointed to represent a society in any other society and vote shall be a member of the committee of the society which he represents. The proviso thereto deals with a situation where the affairs of the society are managed by administrators. An interpretation of R.44-A to the effect that a delegate sent up by an Administrator in charge of the affairs of a primary society shall not be eligible to vote at the election of the Managing Committee of the apex society, but in terms of the proviso thereto, he will only be eligible to be elected as a member of the Committee of the apex society if he is otherwise qualified as indicated, is justified and is warranted. *In this judgment* **1990 (2) KLT 917, 1990 (2) KLJ 792** *and* **1996(1) KLT 479** *are referred to.*

2001 (3) KLT 215 DB Viswanathan v/s The Assistant Registrar

No person who is not a proper delegate to the General Body of the District Forum can be nominated by that Forum as its delegate to the Federation Rule 44 A - Proviso - Member of the Administrative Committee of the District Consumer Federation, was sent as a delegate to the Apex Federation - No person who is not a proper delegate to the General Body of the District Forum can be nominated by that Forum as its delegate to the Federation - Held that the nomination of the member of the Administrative committee is not legal.

Rule 44 A specifies that the person appointed to represent a society in any other society or vote shall be a member of committee of the society which he represents, proviso to Rule 44 A makes it clear that neither the Administrator nor a member of the Administrative Committee can be a delegate in the other society. As per the proviso, the powers that are conferred on the Administrator/Administrative Committee is only to nominate a member of the society to be its delegate in the other society.

1996 (2) KLT 117 = 1996 (1) KLJ 629 Kurien v/s Registrar of Co-operative Societies

The delegate sent by the primary society to the central society will cease to be a member of the general body of the central society by the cessation of his membership in the managing committee of the primary society.

1996 (1) KLT 479 = 1996 (1) KLJ 413 = ILR 1996 (2) Ker 361 John v/s Joint Registrar

Delegates of the society Rule 44 A - Existing Managing Committee members of the Central Society nominated by Administrator under Rule 44 A as delegate to the Central Society - Whatever position they held prior to the assumption of office by the Administrator will not revert back to them on such nomination.

Proviso to Rule 44 A deals with situations where Administrators who are in charge of the affairs of societies nominated any member of the society to be its delegate to any other society. Such a nominee of the administrator, as per the said provision, shall be eligible to be elected as a member of the committee of the other society in which he sits as a delegate. This means that a person nominated by the Administrator of a primary society to be a delegate in the central society gets eligibility to be elected as a member of the committee of the central society. A person nominated by the Administrator in charge of a primary society gets no other right other than the eligibility to be elected as a member of the committee of the Central Society. *In this judgment* **1993 (2) KLJ 864 Gangadharan Nair v/s George Of. Thettayil** *is relied on.*

1996 (1) KLT 479 = 1996 (1) KLJ 413 = ILR 1996 (2) Ker 361 John v/s Joint Registrar of Co-operative Societies

Administrator and Delegates Section 33 : Co-operative Societies Rules, Rule 44 A : An ordinary member of the society can represent the member society in the election to the Board of Directors of the central society when the affairs of the member society is brought under the control of administrator appointed under Section 33 of the Act. Since the administrator is appointed after superceding the committee, it will not be possible for the society to send any one other than its member as a delegate to the central society when it is under the control of the administrator. When the affairs or functions of the society are vested in the administrator, there is no question of electing a member of the committee of that society to represent it in the central society.

1990 (2) KLT 917 = AIR 1991 Ker 309 Devasia Chacko v/s Joint Registrar

Delegate who is a member of the society alone can vote in the election to the Committee of the central society Section 33 (2) : The Act and the Rule reveals that a delegate who is a member of the society alone can vote in the election to the Committee of the central society. The administrator not being a delegate of the member society, has no voting right in the election of the central society. The only role the administrator can play is to manage the affairs of the society which a committee could have performed.

1990 (2) KLT 917 = AIR 1991 Ker 309 Devasia Chacko v/s Joint Registrar

Rule 44 A is not inconsistent with any of the provisions of the Act Rule 44 A - Co-operative Societies Act, 1969 (Kerala), Section 109 - The Government is empowered under Section 109 of the Act to make rules either prospectively or retrospectively to carry out the purpose of the Act. Rule 44 A is not inconsistent with any of the provisions of the Act in any manner.

1990 (2) KLT 917 = 1991 AIR Ker 309 Devasia Chacko v/s Joint Registrar

The delegate to the central society need not be a member of the committee of society which he represents The delegates of the member society are entitled to vote and such votes are not liable to be excluded merely because delegate was not a member of the committee of the society - The delegate to the central society need not be a member of the committee of society which he represents.
1990 (2) KLT 917 Devasia Chacko v/s Joint Registrar

Votes are not liable to be excluded merely because the delegate was not a member of the committee of society Whether an ordinary member can represent the member society in the election to the Board of Directors of the Central Society - The delegates of the member societies are entitled to vote and such votes are not liable to be excluded merely because the delegate was not a member of the committee of society.
1990 (2) KLJ 792 V.T. Sebastian v/s Joint Registrar and others

ACT

S32. Supersession of Committee :- [*(1) If the Registrar, after an inquiry by himself or through his subordinates or on a report of the financing bank, or the Vigilance and Anticorruption Bureau of the Government or the Vigilance Officer or otherwise is satisfied that the committee of any society:-

(a) persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or bye-laws or does anything which is prejudicial to the interests of the society; or

(b) wilfully disobeys or fails to comply with any lawful order or direction issued under this Act or the rules; or

(c) makes any payment contrary to this Act or the rules or the bye-laws or causes any loss or damage to the assets of the society by breach of trust of wilful negligence; or

(d) misappropriates or destroys or tampers with the records or causes the destruction of records to cover up any misconduct or malpractice,

he may, after giving the committee an opportunity to state its objections if any, by order in writing, remove the committee and, appoint a new committee consisting of not more than three members of the society in its place or, appoint not more than three administrators, who need not be members of the society, to manage the affairs of the society for a period not exceeding six months, as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however that the aggregate period does not exceed one year.]

(2) The Registrar shall consult the financing bank and Circle Co-operative Union or State Co-operative Union as the case may be before passing an order under Sub-section (1)

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) it shall not be necessary to give an opportunity to the committee to state its objections and to consult the Unions and financing banks, in cases where the Registrar is of the opinion that it is not reasonably practicable to do so, subject however to the condition that in such cases the period of supersession shall generally be for six months and in case a new committee, cannot be constituted or enter upon office in accordance with the bye-laws of the society within the period of supersession the period may be extended for a further period not exceeding six months-

(a) in the case of co-operative society only after consulting the Circle Co-operative Union concerned; and

(b) in the case of an Apex Society or a Central Society only after consulting the State Co-operative Union.

(4) The committee or administrator or administrators so appointed shall,

* Substituted by Act 1 of 2000

subject to the control of the Registrar and to such instructions as he may from time to time give, [*have power to exercise all or any of the powers and functions] of the committee or of any officer of the society and take such action as may be required in the interests of the society.

(5) The committee or administrator or administrators shall, before the expiry of its or his or their term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society.

(6) every order made by the Registrar under sub-section (1) shall be communicated to the Circle Co-operative Union.

CASE LAWS

While a writ appeal is pending supersession on the ground of non implementation of judgment of the High Court, the Court can direct reinstatement of the committee Co–operative Societies Act, 1969 (Kerala) – Section 32 (3) – Supersession of the committee on the ground of non implementation of judgment of the High Court - Through there is an allegation in the impugned order regarding the engagement of temporary employees, the same is strongly refuted in the writ petition – On the face of such unjust, unreasonable, arbitrary and illegal conduct, it is a fit case where the High Court should interfere under Art. 226 of the Constitution of India – Direction given to the respondents to reinstate the Committee.

Being an extremely rare situation, the Registrar should record the reasons for the opinion on impracticability. It is significant to note that in the matter of consultation, the Joint Registrar has recorded a justifiable reason as to the impracticability, that there is no elected Managing Committee. The fact remains that as on the date of the supersession, on the ground of non implementation of Ext. P8 judgment of this Court, the then Committee had already filed a Writ Appeal before this Court. It has also to be noted that the Writ Appeal was filed in time there was no delay in filing the Writ Appeal.

2004 (2) KLT 1062 Mohanachandran Nair v/s Andoorkonam Service Co-operative Bank Ltd

Even if the lapses were committed during the term of the previous committee, a new committee can be superseded Co–operative Societies Act, 1969 (Kerala) – Section 32 (1) – Faults and lapses committed by previous committee – President and majority of the members of the Director Board reelected – No effective steps taken to set right the position – In extreme cases, a director Board elected for a specific term will have to low out prematurely, in the interest of the organization – Even if the lapses were committed during the term of the previous committee, a new committee can be superseded.

The election and change might have become inconsequential. There may of course be causalities , as Rule 44 (k) prescribes a disqualification for a superseded

* Substituted by Act 1 of 2000

committee member to contest election for one year . Even it may happen that a member of the erstwhile committee, who had demitted the office, and escaped at the nick of the moment a supersession, may be able to participate in the election. But such stray side effects need not deter us from understanding the scope and purport of the inbuilt safety clauses of the Act and workability of the prescription. Otherwise, the provision and effort may become otiose. *In this judgment* **2000 (6) SCC 1271** *and* **1997 (2) KLT 716** *are referred to.*

2004 (2) KLT 873 Mohanan v/s State of Kerala

Since the Joint Registrar failed to state reasons, there was no proper consideration by him in the case Co–operative Societies Act, 1969 (Kerala) – Section 32 – Explanation and objection stated by the committee – Joint Registrar was legally bound to deal with every explanation and objection, to discuss the merits of such explanations and objections and to record the reasons for rejecting such explanations and objections – Since the Joint Registrar failed to do so, held, there was no proper consideration by him in this case. *In this judgment* **AIR 1982 Ker 12** *and* **1997 (2) KLT 85** *are referred to.*

2004 (1) KLT 192 = ILR 2004 (2) Ker 169 DB Sahadevan v/s Padmanabhan

If managing committee is removed from office by an order declared by the Government as illegal, the subsequent election and assumption of charge by the present committee is void Co–operative Societies Act, 1969 (Kerala) – Section 32 – Managing committee removed from office by an illegal order – Illegality has been declared by the Government – Hence, the subsequent election and assumption of charge by the present Managing Committee is void. *In this judgment* **AIR 1994 SC 1918** *is distinguished,* **1993 (2) KLT 641** *is relied on and* **AIR 1953 TC 109, AIR 1951 Mad 883, AIR 1915 Mad 197** *and* **AIR 1957 AP 330** *are referred to.*

2004 (1) KLT 383 = ILR 2004 (1) Ker 313 Sooryanathan v/s State of Kerala

Issuance of a notice under Section 32 (1) is no bar to pass a resolution under Rule 35 A (1) Co–operative Societies Act, 1969 (Kerala) – Section 32 (1) - Rule 35 A (1) – Issuance of a notice under Section 32 (1) – Held, it does not disentitle the Board of Directors to exercise the rights or powers under the Act or the Rules and to pass a resolution under R.35A (1).

Having regard to the provisions in the Act and the Rules, it cannot be said that merely because a notice under Section 32 (1) of the Act, has been issued proposing to supersede the Board of Directors, the Board of Directors cannot pass a Resolution under Rule 35 A (1) of the Rules. It should be remembered that even if a notice under S.32 (1) of the Act has been issued, the Registrar can drop the proposal to supersede the Board of Directors after considering the explanation offered by the Board of Directors. Therefore, issuance of a notice under S.32 (1) of the Act does not disentitle the Board of Directors of a Cooperative Society to exercise its rights or powers under the Act or the Rules.

2004 (1) KLT 91 = 2004 (1) KLJ 321 DB Bhaskaran v/s Jose Joseph

Negligence should be persistent, deliberate, and also at times fit to be characterized as culpable for attracting supersession Section 32 – Supersession of Director Board Members of Co-operative Bank – It is not negligence alone which authorizes interference under S.32(1) – It should be persistent, deliberate, and also at times fit to be characterized as culpable – A member or committee is liable to be punished for specific defaults – Power is vested in the Department to take appropriate action – Such rights are different from the steps of suppression.

As the Government had hardly examined issue in appeal, except to observe that the 'Committee is negligent in the performance of duties'. at least a cursory examination of the merits are to be attempted to. It is not negligence alone which authorises interference under S.32 (1) of the Act, It should be persistent, deliberate, and also at times fit to be characterised as culpable, If as a matter of fact, any one of the members, or the committee was liable to be punished for specific defaults, power is vested in the Department to take appropriate action. Such rights are different from the steps of supersession. *In this judgment* **AIR 1982 Ker 12, 1995 (2) KLT 184, 1997 (2) KLJ 43, 1997 (2) KLT 85, 1997 (1) KLJ 607, 1997 (2) KLT 522, AIR 2003 SC 1344** *and* **1974 KLT 189** *are referred to.*

2003 (3) KLT SN 114 Ashok Kumar v/s State of Kerala

Mere Likelihood of an order being passed against the Board is not a valid ground for directing the Joint Registrar not to implement his order Section 32 – Order passed by Joint Registrar – Likelihood of an order being passed against the Board of Directors – Mere apprehension that the order is likely to be against the committee or administration may take charge of the management before superceded committee files appeal and seek stay – Not a valid ground for directing the Joint Registrar not to implement his order.

A mere apprehension of the members of the committee that the order of the Joint Registrar is likely to be against the committee or that the Administrator may take charge of the management of the society before the superceded committee files appeal and seeks stay, is not a sufficient or valid ground or justification for directing the Joint Registrar not to implement his order under S.32 of the Act.

2003 (2) KLT 2005 = KLJ 650 DB Krishnan Nair v/s Vaikom Palliprathuss Service Co-operative Bank

Interim report which is essentially a copy of the audit report is neither complete nor comprehensive to initiate action under Section 32 Section 32 and 66 - Supersession of Board and appointment of administrator - Basic principle underlying Section 32 is that management of Society should be by representative body and the exception is only their substitution by administrator.

The second respondent showed undue haste in getting the interim report without waiting for a final report on an enquiry which is still said to be going on and passed the impugned order without giving a fair opportunity to the petitioners. I feel Ext. P 13

action does not appear to be taken to save the society, but has been taken to oust the committee from power. It is to be noticed that the second respondent's duty pursuant to the enquiry under Section 66 is to protect the interests of the society and not to act as a disciplinary authority over the Board of Directors of the society. Legally there is no bar for the second respondent to take action if materials brought on record under Section 66 enquiry are adequate to take action under Section 32 It is evident that in the beginning the second respondent has not taken into account the allegations as grave enough to order enquiry under Section 65 as is evident from Ext. P 8 initiation of enquiry proceedings under Section 66 of the Act. The enquiry under Section 66 is still in progress and the interim report which is essentially a copy of the audit report is neither complete nor comprehensive to initiate action under Section 32 and from the action of the second respondent it is clear that the purpose of the enquiry was only to remove the Board. *In this judgment* **1998 (1) KLJ 735** *is referred to and* **1990 (1) KLT 513, 1995 (2) KLT 184** ***and*** **1997 (1) KLJ 607** *are relied on.*

2002 (2) KLT SN 134 Board of Directors v/s The Kallurkkad Farmers Co-operative Bank Ltd

Government or Joint Registrar has no power to direct the Bank to suspend its employee Rule 198 (6) - Government or Joint Registrar has no power under the statutory provision to direct the Co-operative Bank to suspend its employee.

We may point out due to misconduct of its employee or otherwise the societies affairs may be affected. It is always open to the Joint Registrar to take appropriate action under the provisions of the Co-operative Societies Act and Rules. There is also ample power on the Registrar to take action under Sections 65 and 66 of the Co-operative Societies Act and power under Section 32 can also be invoked in appropriate situations. In the absence of any provision in the Act or Rules giving power on the Government or Joint Registrar to direct suspension of an employee of the Co-operative Society we are of the view learned single Judge was not justified in declining relief to the petitioners.

2002 (1) KLT 880 = 2002 (1) KLJ 450 DB Mohammedkutty v/s Secretary to Government

A committee cannot be superceded by flimsy reasons S.32 - Supersession of Committee - Doing away with procedural requirements-A mere statement in the order that an alarming situation is present not enough in doing away with procedural requirements- Cannot be superceded by flimsy reasons.

On the facts of this case there was no 'alarming situation' for superseding an elected managing committee dispensing with even a show cause notice and other procedural requirements. Otherwise in every case such a step can be used and violating the principles of natural justice and procedural formalities, elected body can be superseded arbitrarily. No emergency was here to make such a supersession without notice on the facts of the case. *In this judgment* **1995 (2) KLT 184, 1971 AC 297,**

1943 AC 627, AIR 1973 SC 1260, AIR 1981 SC 818 *and* **AIR 1979 SC 1628** *are relied on.*

2001 (3) KLT SN 37 P 26 = 2001 (2) KLJ 429 M. Selvi v/s The General Manager, District Indore Centre and another

Action taken in haste so as to give a feeling the action was not bonafide Supersession of the managing Committee - Copy of enquiry report not furnished to the committee and their objections heard - Action taken in haste so as to give a feeling the action was not bonafide - As the term of the committee is any way about to expire election ordered to be conducted without delay.

OP No. 29266/2001 dated 25-3-2002 The Kallorkad Farmers Co-operative Bank Ltd v/s The Joint Registrar

Once an order of supersession is made, the question whether there was actual supersession becomes irrelevant Rule 45 - Order of supersession of committee passed by Registrar stayed by High Court. Appeal to Government also dismissed. Meanwhile the term of the committee expiring - once an order of supersession is made, the question whether there was actual supersession becomes irrelevant. *In this judgment* **1985 Supp SCC 280** ***In this judgment*** **State of Orissa v/s Titaghur Paper Mills Company Ltd and AIR 1992 SC 1981 Nelson Motis v/s Union of India** *are referred to.*

1999 (3) KLT 707 Aliyar v/s Returning Officer

Discretion must be exercised within the limit Article 226 - Discretion means when it is said that something is to be done within the discretion of the authorities that something is to be done according to the rules of reason and justice, not according to private opinion; according to law and not humour. It is to be not arbitrary, vague and fanciful, but legal and regular. And it must be exercised within the limit, to which an honest man competent to the discharge of his office ought to confine himself. *In this judgment* **1981 AC 173 Sharp v/s Wake Field** *is followed.*

1999 (1) KLT 500 Regi Kuriakose v/s Superintendant of Police

Administrator appointed on supersession has no power to make appointment Sections 32 and 33 - Administrator appointed on supersession of a society under the sections have no power to make appointment to the staff of the society.

ILR 1999(1) Ker 424 Raghavan Nair v/s The Joint Registrar of Co-operative Societies

The persons concerned should know the allegations on the basis of which the proposed action is taken and opportunity should be afforded to them to refute the same The conditions precedent for exercising the power under Section 32 is that the Registrar on materials placed before him should be satisfied that the ground mentioned in Section 32 exist for supersession of the Committee. It is not necessary for this purpose that the Registrar or the Assistant Registrar should exercise

the power under Sections 63, 64, 65 and 66 of the Act. In the present case enquiry was made under Section 66 of the Act. If the action is under Section 32, the person concerned should know the allegations on the basis of which the proposed action is taken and opportunity should be afforded to them to refute the same Registrar should apply the mind before passing order. *In this judgment* **1997 (1) KLJ 475 = 1997 (1) KLT 957** *is reversed.*

ILR 1998 (1) Ker 146 State of Kerala v/s Sudarsanan

The Registrar has no power to remove individual members of the committee under Section 32 of the Act The power is given only to remove the entire body of the committee as a whole.

The power under S. 32 of the Act can be exercised by the Registrar to remove a committee if it persistently makes default or is negligent in the performance of the duties or commits any act which is prejudicial to the interests of the society or willfully disobeys or willfully fails to comply with the any lawful order or direction issued under this Act. The Registrar had exercised his power under Section 32 (1) of the Act to remove 11 members from the Managing Committee of the Bank and thereafter, the entire committee was superseded. Therefore, the question is whether the Registrar has got power to remove the individual members under S. 32 of the Act. The heading of the Section itself is supersession of Committee. Further the body of the Section says that the Registrar may by order in writing remove the committee and appoint a new committee or an arbitrator to manage the affairs of the Society. Sub-section (3) of the Section 32 of the Act says that notwithstanding anything contained in sub -section (1) or Sub-section. (2) it shall not be necessary to give an opportunity to the committee to state its objections and to consult the Union and financing banks, in cases where the Registrar is of the opinion that it is not reasonably practicable to do so. Thus, a plain reading of Section 32 of the Act shows that the power is given to the Registrar under Section 32 to remove the entire body of Committee as a whole.

OP No. 267 of 1997 = 1997 (2) KLT 710 = ILR 1998 (1) Ker 51 DB Sivadasan Nair v/s Registrar of Co-operative Societies

Removing some members and thereafter superseding the Committee on the ground that there is no quorum Co-operative Societies Act, 1969 (Kerala) - Section 32 (1) - Supersession of committee – Cannot be used to remove some members and thereafter supersede the Committee on the ground that there is no quorum for the committee for effective functioning. *In this judgment* **1996 (2) KLT 671 Raghavan v/s Joint Registrar** *is referred to.*

OP No. 267 of 1997 = ILR 1998 (1) Ker 51 = 1997 (2) KLT 710 DB Sivadasan Nair and others v/s The Registrar of Co-operative Societies and others

Assistant Registrar can report of the irregularities to the Registrar to take action individually under Section 32 Sections 32, 65 & 66 - Condition precedent for exercising power under Section 32 - Not necessary that the Registrar or

Assistant Registrar should exercise powers under Sections 63, 64, 65, & 66 - Assistant Registrar can report of the irregularities to the Registrar to take action individually under Section 32.

Under Section. 66 (5) of the Act, the Registrar can direct the Society or its officers to take such action as may be specified in such order within the time that may be mentioned in such order. But, on inspection, if it is found that the committee has committed such irregularities or that there has been neglect of the orders issued by the Registrar or that huge losses have been occurred due to the negligence of the committee, it cannot be said that the Assistant Registrar, should under Section 65 of the Act, direct the Society to cure the defects. If the circumstances are so serious the Assistant Registrar can report the matter to the Registrar to take suitable action individually under Section 32 of the Act. *In this judgment* **1997 (1) KLT 957 Sudarasanan v/s State of Kerala** *is reversed and* **AIR 1970 SC 992 Joint Registrar of Co-operative Societies, Madras & others v/s S. Rajagopal Naidu** *are relied on and* **AIR 1970 SC 992 Joint Registrar of Co-operative Societies, Madras and others v/s P.S. Rajagopal, 1980 (4) SCC 379 S.L. Kabeer v/s Jagamohan, AIR 1966 SC 671 Madhya Pradesh Industries Ltd v/s Union of India** *and* **1990 (4) SCC 595 S.N. Mukherjee v/s Union of India** *are referred to.*

1997 (2) KLT 522 = ILR 1998 (1) Ker 146 DB State of Kerala v/s Sudarsanan

Effective consultation is a must When notice were issued for consultation of these Apex Bank and Co-operative Union only notices as issued under Section 32 was forwarded. Latest balance sheet of the Bank for the reply of the petitioner was not sent. The tentative conclusion of the Registrar after considering the reply of the petitioners was not sent. There was no effective consultation. Therefore, even if Section 65 enquiry and findings are correct, the mandatory provisions like consultation were not followed. Mere default or disobedience or failure to comply with the provisions assuming to be found to be true cannot be a ground for supersession unless it is shown that there is persistent and wilful negligence or wilful disobedience.

1997 (2) KLT 85 Ellakkal Service Co-operative Bank v/s State

Sending the show cause notice is not effective consultation Section 32 (2) - Consultation -Show cause notice alone sent to financing bank and Circle Co-operative Union - Held that there is no effective consultation.

When notices were issued for consultation of these Apex Bank and Co-operative Union only the notice as issued under section 32 was forwarded. Latest balance sheet of the bank for the reply of the petitioners was not sent. The tentative conclusion of the Registrar after considering the reply was also not sent. There was no effective consultation. Therefore, even if section 65 enquiry and findings are correct, the mandatory provisions like consultation were not followed. *In this case* **AIR 1982 Ker 12 Jose Kuttiyani and others v/s Registrar of Co-operative Societies** *is followed.*

1997 (2) KLJ 43 John and others v/s Joint Registrar and others

Assistant Registrar has no jurisdiction to recommend for the supersession Section 32 - It is for the Registrar who had passed the order of supersession to satisfy himself on the recruitment of Section 32.

1997 (1) KLJ 607 = 1997 (2) KLT SN 1 T.J. James v/s Joint Registrar

Matters to be considered for supersession Section 32 - Power of supersession when to be exercised-Matters to be considered - Requires categorical finding and violation of specific rule or an order.

A mere default or disobedience or failure to comply with the provisions assuming to be found to be true cannot be a ground for supersession unless it is shown that there is persistent and wilful negligence and wilful disobedience. A supersession of an elected committee is akin to a dismissal and would require categorical finding and violation of specific rule or an order. Even assuming for argument sake that there is any negligence, the respondents could have directed them to cancel the overdraft facility instead of invoking the extreme step of supersession. The Section contemplates a continuing violation of present form.

1997 (1) KLJ 607 = 1997 (2) KLT SN 1 T.J. James v/s Joint Registrar

Fraud on the power granted by the statute Article 226 - Order of supersession of Co-operative Society when can be interfered with - Co-operative Societies Act, 1969 (Kerala), Section 32. If the power exercised is for a purpose or an intention beyond the scope and contemplation of the provision the action is liable to be interfered with on the ground that it constitutes fraud on the power granted by the statute.

1997 (1) KLJ 607 = 1997 (2) KLT SN 1 T.J. James v/s Joint Registrar

The Registrar's satisfaction should be subjective and shall not be arbitrary Section 32 - Mere confirmation of the recommendation of Assistant Registrar in his report under Section 66 is a clear abdication of the power conferred under Section. 32.

The Joint Registrar had failed to see that he was not sitting in appeal or for considering whether the decision taken by the Assistant Registrar in superseding the society is to be confirmed or not. The Joint Registrar should have independently considered the charges levelled in the show cause notice and the reply furnished by the petitioners. *In this case* **AIR 1982 Ker 12 Jose Kuttiyani v/s Registrar of Co-operative Societies** *and* **AIR 1970 SC 992 Joint Registrar of Co-operative Societies, Madras and others v/s P.S. Rajagopal Naidu and others** *are relied on.*

1997 (1) KLT 957 = 1997 (1) KLJ 475 Sudarsanan v/s State

Refusal of request for copy of enquiry report is violation of natural justice Sections 32 and 66 - Action under Section 32 based on the report made under Section 66 - Request of the committee to furnish copy of report refused - This clearly violates the principles of natural justice.

On enquiry under Section 65 of the Act a recommendation to supersede the

committee was made by the Assistant Registrar. The request of the committee for the copies of the inquiry report was not granted, whereas it is seen that the report is the basis of the impugned order. This clearly vitiates the principles of natural justice. Mere furnishing of information casually is not proper notice.

1997 (1) KLT 957 = 1997 (1) KLJ 475 Sudarsanan v/s State

No separate notice to each member Section 32 (1) - Supersession of committee - separate notice need not be given to each member of the Board of Directors.

ILR 1997 (2) Ker 124 = 1997 (1) KLJ 253 Raghavan v/s Joint Registrar of Co-operative Societies and another

Major reasons for supersession The relevant ingredient is the satisfaction of the Registrar as to society persistent negligence in the performing of the duties imposed by the Act or the rule or the bye-laws, acting against the interest of the society and wilfully disobeying and wilfully failing to comply the orders and directions issued under the Act and Rules.

1997 (1) KLT SN 32 Krishnan v/s Joint Registrar

Court can only direct the authority to exercise the power Section 28(1) (B) - Court under Article 226 can only direct the authority to exercise the power and cannot substitute its decision to that of the authority and direct holding of the elections - Constitution of India. Art. 226.

The administrator appointed for the reason stated in the order of supersession will have to manage the affairs of the society for a period not exceeding one year. It is also open to the Registrar to exercise his discretion to the extended period, but it shall not exceed two years. In view of the specific provision and in the light of the decision of the Division Bench of this Court and taking into account the circumstances of the case, I do not find any reason warranting the issue of a direction to hold the election to the managing committee of the society as prayed for.

1997 (1) KLT SN 20 P 17 Krishan v/s Joint Registrar

Wilful disobedience of orders of Registrar Section 32 - Power when can be exercised - Wilful disobedience of orders of Registrar - Power under Section 32 can be invoked.

By applying the principles laid down by this Court and the Supreme Court and by strictly construing the provisions of Section 32, it is a clear case of wilful negligence in performing the duties imposed by the rules and the bye-laws and wilful disobedience and wilful failure to comply with the lawful orders of the society. By adopting these standards, the action of the Joint Registrar in superseding the committee cannot be held to be bad.

1997 (1) KLT SN 20 P 16 Krishnan v/s Joint Registrar

There is no provision to give separate notice to each member of the Board of Directors Section 32 - Notice need be given only to the Committee.

It is contended that if any supersession order is passed, it would visit the

petitioner with civil consequences and, therefore, he is entitled to get notice. Petitioner has a right to get notice. But as he is a member of the Committee, the notice will be received through the President of the Committee. So long as there is no individual right of notice under Section 32 (1) of the Act, it cannot be said that the petitioner should be issued with separate notice. *In this case* **AIR 1981 SC 136 S.L. Kapoor v/s Jagmoham** *is distinguished.*

1996 (2) KLT 671 = 1996 (2) KLJ 253 Raghavan v/s Joint Registrar

The words persistent, negligent, wilful and lawful are the key words as guiding factors for the exercise of power Section 32 - Order of supersession - Nature of satisfaction that is required by the Registrar - The words persistent, negligent, wilful and lawful are the key words as guiding factors for the exercise of power.

These words provide legitimate material for the court to observe that under the provisions the Registrar, who is the principal statutory authority under the Act, gets an exemplary power which enables him authoritatively to disbar the members of the committee as a whole, which is saddled by the democratic process. *In this judgment* **AIR 1980 Ker 12 Jose Kuttiyani v/s Registrar of Co-operative Societies** *and* **1990 (2) KLT 213 Govindankutty v/s Viyyur Service Co-operative Bank** *are relied on.*

1995 (2) KLT 184 = 1995 (2) KLJ 23 = AIR 1995 Ker 389 Rajagopalan Nair v/s State of Kerala

Provision for supersession is to be considered as an exceptional and rare action Section 32 - The co-operative movement was required to be provided for in the context of its orderly development. On examination of the various provisions that the Act permits societies registered to functions as body corporates with a continued existence of a legal person having a perpetual succession. It gives power to hold property, enter into contract, institute and defend suits and to do all things necessary, which is subject only to restrictions and controls that have been imposed by the Act and the controls are to be understood to ensure timely supervisions for their proper administration.

1995 (2) KLT 184 = 1995 (2) KLJ 23 = AIR 1995 Ker 389 Rajagopalan Nair v/s State of Kerala

In hearing the other side the administrative authority is called upon to act within the frame work of the statute Section. 32 (1) - Non supply of reports relied on by Registrar for issuing notice inviting objections to the proposed supersession is not a violation of principles of natural justice. Natural justice is universally as a mandatory principle, the non-observance of which invalidates the exercise of power. One of the principles of natural justice is that an authority entrusted with legal power could not validly exercise it without first hearing the person who was going to suffer. The principle of a fair opportunity to present one's case, or of hearing before an adverse decision is taken, is easy to understand. It is in its application that the principle

presents difficulties. While it is obligatory that a party against whom adverse action is proposed must be heard, there is no universally accepted technique of such hearing by administrative authorities. What technique or method, an administrative authority should adopt thus depends upon the circumstances of the case and the nature of the authority. Secondly the right to be heard is often misunderstood as something close to the judicial method of formal testimony of witnesses, testing it by cross-examination and arguments. In "hearing the other side", the administrative authority is called upon to act within the frame work of the statute.

1993 (2) KLJ 197 M. Mabsul Rahiman and others v/s Joint Registrar and others

To state objections is a universally accepted fundamental principle Co-operative Societies Act, 1969 (Kerala) - Section 32 (1) - Before superseding the Committee, Full opportunity to meet the charges should be given to the members before superseding the committee. To state objections is a universally accepted fundamental principle. *In this judgment* **1971 KLT 753 M.V. Hydrose v/s Deputy Registrar of Co-operative Socieities, 1974 KLT 189 Deputy Registrar of Co-operative Societies and another v/s P. K. George** *and* **1911 AC 179 Board of Education v/s Rice and others** *are referred to.*

ILR 1993 (3) Ker 415 = 1993 (1) KLJ 760 Leila B. and others v/s The Kovalam Harijan Fisheries Co-operative Society and others

Opportunity to state objections envisaged by Section 32(1) is not mandatory Section 32 - The omission to give opportunity to state objections envisaged by Section 32(1) is not mandatory and therefore by itself such omission may not vitiate the order of supersession and appointment of administrator.

1993 (1) KLJ 760 = ILR 1993 (3) Ker 415 Lila and others v/s The Kovalam Harijan Fisheries Co-operative Society

Writ need not be maintainable against administrator If a writ petition is not maintainable against a Co-operative Society, it does not mean that the same is maintainable merely because an Administrator has been appointed superseding the managing committee. *In this judgment* **1985 KLJ 446** *dissented.*

1992 (2) KLT 955 = 1992 (2) KLJ 757 Devadas v/s Administrator

It shall not be necessary to publish notice where it is not reasonably practicable to do so Section 32 2nd Proviso - The second proviso to the Section clearly states that it shall not be necessary to publish notice in cases where the Registrar is satisfied that it is not reasonably practicable to do so. The order is not invalid. *In this case 1992* **(2) KLT 510** *is reversed.*

1992 (2) KLT 942 = 1992 (2) KLJ 769 DB Registrar of Co-operative Societies v/s Sasi

Importance of the appointment of the administrator Section 33 (1) Proviso - The appointment of an Administrator is a matter of serious import for the

society and its members. Where by the democratically elected committee is superseded and a nominee of the department assumes control and management of the society. The rights of the members to have the administration carried on by their duly elected representatives stand suspended.

1990 (2) KLT 895 = AIR 1991 Ker NOC 37 = 1990 (2) KLJ 530 Antony Jerome v/s Joint Registrar

Factors to be taken into account in order to supersede Section 32 - Factors to be taken into account by Registrar before exercising power under section 32 in order to supersede the Board of Directors. Board of Directors of the Society, who are elected should not been superceded on flimsy grounds.

1990 (1) KLT 513 = 1990 (1) KLJ 474 = AIR 1991 Ker NOC 36 Govindan Kutty v/s Viyar Service Co-operative Bank

Maintaining democratic set up By invoking provisions under Section 32, on flimsy grounds the Board need not be superseded, Registrar must exercise the power for strengthening the co-operative institutions by maintaining democratic set up.

1990 (1) KLJ 474 P. Govindankutty and others v/s State and others

The requirement of notice is mandatory Section 33 (1) - Appointment of Receiver - Publication of notice - if necessary - A supersession of a committee is a serious matter having great impact in the working and Administration of a Society. It has impaction on a basic issue, namely entitlement of those duly and properly elected to continue in office, until removed or superseded in accordance with law. The requirement of notice to the Board of Directors before supersession is mandatory as provided under Section 33(1) except in cases where the Registrar is satisfied that it is not reasonably practicable to do so.

1985 KLJ 355 P. Mohammed and others v/s The Joint Registrar of Co-operative Societies, Cannanore and others

There can be judicial scrutiny of the impugned decision on the point of rational or reasonable nexus The order of the statutory authority can also be challenged if it is shown that the action was taken on grounds or materials totally irrelevant to the purpose and intention of the statute or that relevant matters have not been considered or that the grounds or evidence on the basis of which the authority acted are such that no one could reasonably arrive on such basis at the opinion or satisfaction required under the Legislation. There can be judicial scrutiny of the impugned decision on the point of rational or reasonable nexus.

1981 KLT SN 65 = AIR 1982 Ker 12 Jose Kuttiyani v/s Registrar

Technical violation of the rule to keep minimum cash reserve in the past Whether prejudice is caused or continues on the date action was taken is the question to be considered.

1981 KLT SN 65 = AIR 1982 Ker 12 Jose Kuttiyani v/s Registrar of Co-operative Societies

Section 87 is no bar to invoke writ There is no appeal provided for against an order passed by the Registrar under Section 32 (1). The discretionary power of the Government under Section 87 is no bar to invoke the jurisdiction under Article 226 of the Constitution.

1981 KLT SN 65 = AIR 1982 Ker 12 Jose Kuttiyani v/s Registrar

The satisfaction of Registrar may be subjective and not arbitrary The jurisdiction to exercise the power under Section 32 depends on the satisfaction of the Registrar of one or other of the three conditions mentioned in the section. Before an order superseding the committee is passed the Registrar must consult the financing bank and Circle or State Co-operative Union as the case may be is a condition precedent. It is to the Registrar to satisfy whether all the conditions exist or not. The satisfaction may be subjective and not arbitrary.

1981 KLT SN 65 = AIR 1982 Ker 12 Jose Kuttiyani v/s Registrar of Co-operative Societies

State cannot substitute the committee In the guise of exercising control the State cannot displace the managing committee and substitute its own committee.

1974 (2) SCWR 259 State of Mysore v/s Allum Karibasappa

Civil Court has no jurisdiction Civil Court has no jurisdiction to entertain a suit challenging supersession of a managing committee.

AIR 1974 Bom 269 Shere-E-Punjab Co-operative Housing Society v/s Kshirasagar

Supersession is not violative of Article 14 Co-operative Societies Act, 1969 (Kerala) - Section 32 (3) - There is no force in the contention that Section 32 (3) of the Act is violative of Article 14 of the constitution since it confers an arbitrary and uncanalised power on the Registrar to supersede a committee of a Society even without giving an opportunity to the committee to State its objections.

ILR 1973 (2) Ker 511 Balakrishnan Nair v/s State of Kerala and others

Court can go into the correctness of the order Co-operative Societies Act, 1969 (Kerala) - Section 32 (3) - Order of the Registrar superseding the committee without affording an opportunity to the committee to explain- Circumstances under which the court can go into the correctness of the order under Article 226 of the Constitution.

ILR 1973 (2) Ker 511 Balakrishnan Nair v/s State of Kerala

Government assuming control without notice is invalid Notification of the Government assuming control and appointing directors without notice to the Society is invalid.

1973 (2) Mys LJ 43 Karibasappa v/s State of Mysore

Power to suspend committee of management On U.P. Co-operative Societies Act, 1966 SC discussed the power to suspend committee of management and power to appoint Administrator.

AIR 1973 SC 1249 = 1973 (1) SCC 456 Veerpal Singh v/s Registrar Co-operative Societies

Conditions precedent for supersession of committee An administrator can be appointed only after initiating proceedings for supersession of the committee for valid reasons. Conditions precedent for supersession of committee discussed.

1973 (1) SCWR 321 = 1973 (1) SCC 456 Shri Yograj Singh v/s Registrar of Co-operative Societies

Power of Registrar Registrar has ample power and jurisdiction to supersede the Committee for the irregularities and improper functioning of the previous members of the Committee.

1971 (2) And WR 172 Syed Qutbuddin Oadri v/s State of AP

No restriction can be put on Registrar to acquire any material which would be useful to him to form the opinion The Registrar may form an opinion on the basis of the report submitted to him under Section 64, but no restriction can be put on him to acquire any material which would be useful to him to form the opinion that the Society is not functioning properly

1964 (2) And LT 94 = AIR 1965 AP 69 Subramonian Sastry v/s Registrar

After the appointment of an administrative committee seizure of the records is without jurisdiction Where the managing Committee of a Society was superseded by the departmental authorities and a "rectification Committee" was appointed, an order for seizure of the records subsequent to the election of a new committee was clearly without jurisdiction.

1960 (2) KLR 138 Xavier v/s Joint Director of Industries

If the charges are unproved, supersession is unsustainable When charges levelled against the committee are not proved, the order of supersession cannot be sustained.

1959 KLJ 93 Krishnan v/s Joint Director of Industries and Commerce

The functions of the Registrar quasi-judicial It is not necessary that all the procedure generally expected to be followed in a Court of law, should be observed by him in deciding disputes. The decision of the time for submission of the explanations, the place at which the explanation should be submitted, are all matters of detail left to the bonafide discretion of the Registrar.

64 LW 643 = AIR 1951 Mad 1003 = 1951 (2) MLJ 96 Ramayya v/s Madras State

ACT

S33. Appointment of new committee or administrator on failure to constitute committee, etc :- (1) Where the term of office of a committee has expired and a new committee has not been constituted, or [*where a no-confidence motion is passed by the general body against the existing committee or where the existing committee resigns enbloc or where vacancies occur in the committee either by resignation or

* Substituted by Act 33 of 1971

otherwise and the number of remaining members cannot constitute the quorum for the meeting of the committee, or where the committee fails to hold its regular meeting consecutively for six months or where the Registrar is satisfied]

(a) that a new committee cannot be constituted before the expiry of the term of office of the existing committee; or

(b) that a new committee is prevented from entering upon office or a new committee fails to enter upon office, on the date on which the term of office of the existing committee expires, the Registrar may, either suo motu or on the application of any member of the society after [*intimating] the Circle Co-operative Union, appoint-

(i) a new committee consisting of not more than three members of the society; or

(ii) [**not more than three Administrators who need not be] members of the society to manage the affairs of the society [#for a period not exceeding six months as may be specified in the order, which period may at the discretion of the Registrar and for reasons to be recorded in writing, be extended, from time to time, so, however, that the aggregate period shall not, in any case, exceed one year or till a new committee enters upon office, whichever is earlier]

Provided that before making such order, the Registrar shall publish a notice on the notice board of the head office of the society inviting objections to the making of the order within a period specified in the notice and consider such objections.

Provided further that it shall not be necessary to publish such notice in case where the Registrar is satisfied that it is not reasonably practicable to do so.

[#Provided also that where a committee, Administrator or Administrators as the case may be, is in office at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1992, the Registrar may extend the term of such committee, Administrator or Administrators, as the case may be, for a further period not exceeding one year from the date of such commencement.]

[***Explanation :-** For the purpose of this sub-section, a tender of resignation by a member of the committee shall have the effect of terminating his membership from the Committee.]

[##(1A) Notwithstanding anything contained in sub-section (1), where on receipt of a report from the Registrar, the Government are satisfied that a new committee cannot be constituted or cannot enter upon office of the society before the expiry of the term of office of the committee, Administrator or Administrators, as the case may be, appointed by the Registrar under sub-section (1) and that it is necessary in the public interest to manage the affairs of the society and to enable

* Substituted by Act 33 of 1971
** Substituted by Act 1 of 2000
Inserted by Act 5 of 1992
Inserted by Act 16 of 1993

a new elected committee to enter upon office, the Government may, by notification in the Gazette, for reasons to be recorded, permit the Registrar to extend the term of the said committee, Administrator or Administrators, as the case may be, for a further period not exceeding one year in the aggregate or till a new committee enters upon office, whichever is earlier.]

(2) The committee or Administrator or Administrators appointed under [*Subsections (1) & (1A)] shall, subject to the control of the Registrar and to such instructions as he may from time to time give, [**have power to exercise all or any of the powers and functions] of the committee or of any officer of the society and take all such action as may be required in the interest of the society.

(3) The committee or Administrator or Administrators shall arrange for the constitution of a new committee or for the entering upon office of the new committee as the case may be

CASE LAWS

The case laws under this head are subdivide into the following.

1. Appoinment of administrator
2. Functions of administrator
3. Administrator general matters

APPOINTMENT OF ADMINISTRATOR

Where there is no quorum Section 33 is attracted When vacancies occur in the committee by resignation of the members and the number of remaining members cannot constitute the quorum for the meeting of the committee, the said provision can be pressed into service, It is clear from the Explanation that for the purposes of Section 33 (1) tendering of resignation by a member of the committee shall have the effect of terminating his membership from the committee. It is also to be seen that under Section 33 a resignation cannot be withdrawn since it takes effect simultaneously with the tender and there is cessation of membership. For the purpose of Section 33 (1) as observed above the act of resignation and its communication is sufficient. In the above circumstances I have no hesitation to hold that petitioners 2,3 and 4 have by their conduct of resignation paved way for action under Section 33 and the first respondent was justified in pressing into service the inevitable consequence under the Section since the remaining members cannot constitute the quorum for the meeting of the committee. *In this judgment* **1994 (2) KLT 238** *and* **1974 KLT 189** *are referred to.*

2002 (2) KLT 730 = 2002 (2) KLJ 274 Baby Chemparathy v/s Joint Registrar of Co-operative Societies

Section 33 (1) cannot be interpreted in such a way as to take away the effect of the first proviso Co-operative Societies Act, 1969, (Kerala) - Section 33

* Substituted by Act 16 of 1993

** Substituted by Act 1 of 2000

(1) – Second proviso to S.33 (1) cannot be interpreted in such a way as to take away the effect of the first proviso – It is only in cases where the circumstances show that issue of a notice under the first proviso is reasonably not practicable that a notice can be dispensed with.

The proviso to S.33(1) of the Co-operative Societies Act makes it mandatory to order a notice on the notice board of the Headquarters of the Society inviting objections to the making of the order of appointment of Administrator and consider such objections. The second proviso to S.33(1) cannot be interpreted in such a way as to take away the effect of the first proviso and it is only in cases where the circumstances show that issue of a notice under the first proviso is reasonably not practicable that a notice can be dispensed with. Any other interpretation would nullify the effect of the first proviso and lead to arbitrary action on the part of the authorities to meddle with the democratic functioning of a society. *In this judgment* **1994 (2) KLT 238, 1992 (2) KLT 942** *and* **1974 KLT 189** *are referred to.*

2001 (1) KLT SN 12 P10 = ILR 2001 (1) Ker 62 Thomas v/s Jaihind Powerloom Industrial Co-operative Society Ltd

Election not conducted due to non co-operation of the Managing Committee The members of the Managing Committee whose term had already expired cannot be permitted to continue as Administrative Committee, which would only amount to giving them power through back door.

1999 (3) KLT 139 = 1999 (2) KLJ 529 Joint Registrar v/s Chata

Power given to the Registrar Under Section 33 of the Act, power is given to the Registrar of Co-operative Societies to appoint, after intimating the Circle Co-operative Union, a new committee consisting of not more than 3 members of the society; or one or more administrator or administrators, who need not be a member or members of the society, to manage the affairs of the society for a period not exceeding 6 months as may be specified in the order, which period may be extended from time to time at the discretion of the Registrar, for reasons recorded in writing, under the contingencies enumerated in the said Section.

1999 (3) KLT 139 = 1999(2) KLJ 529 Joint Registrar v/s Chatha

If the committee ceases to exist, the Joint Registrar has to Act Co-operative Societies Act, 1969 (Kerala) - Section 33 - If the Board of Directors cease to be legally exist, the Joint Registrar has to Act under the section.

ILR 1995 (2) Ker 631 = 1995 (1) KLJ 492 = 1995 (1) KLT 486 Padmanabham P v/s Joint Registrar of Co-operative Societies and others

Instead of aiding the cause of justice removal of administrator would result in chaos and disorder In the instant case Registrar of Co-operative Societies extended the term of Administrator from beyond one year under Section 33 of Kerala Co-operative Societies Act to look after the affairs of Kalamachal Handloom Weavers' Co-operative Society Limited since its executive committee had been superseded.

The ousted committee sought for removal of administrator, Held , on the one hand removal of Administrator would leave the society with one to look after its affairs and on the other non-removal would tantamount to tolerating ultra vires act of Registrar in extending terms of Administrator and as such petition under Act 226 is not maintainable since instead of aiding the cause of justice it would result in chaos and disorder dislocating the working of the society.

AIR 1995 Ker 202 R. Thulaseedharan and another v/s State of Kerala and others

The Administrator cannot challenge the orders of the Registrar Section 33 (1) (b) (11) 2nd proviso - The Administrator appointed under Section 33(1) of the Act by the Registrar has no independent character and existence and he is totally subject to the control of the Registrar. He cannot be an alternative body for the committee of the Society and he can never be equated to it. The Administrator cannot challenge the orders of the Registrar issued in exercise of controlling power by the Administrator.

1995 (1) KLJ SN 29 = ILR 1995 (1) SN 29 Mukundan v/s Director of Dairy Development and others

The Administrator not an alternative body for the committee The Administrator appointed under Section 33 (1) of the Act by the Registrar is neither a substitute nor an alternative body for the committee of the society. He can never be equated to it for reasons more than one first he is totally subject to the control of the Registrar which means he has no independent charters and existence. Secondly he has to function according to the instructions as the Registrar may from time to time give. This is what is discernible from the provisions contained in sub-section (2) of Section 33.

1995 (1) KLJ SN 29 = ILR 1995 (1) SN 29 Mukundan v/s Director of Dairy Development and others

Lack of quorum due to resignation Rule 33 (1) - By resignation, the number of members getting reduced below the quorum - Unless and until the Registrar acts in the manner provided in Section 33 the remaining members of the Committee do not cease to be members of that committee, though they may not be in a position to act or transact business without necessary quorum. *In this judgment* **1987 (2) KLT 420 Varma v/s Joint Registrar** *is distinguished.*

1994 (2) KLT 238 = 1994 (2) KLJ 231 Sadasivan v/s Joint Registrar

High Court erred in treating the Bank whose election process had already commenced and the Bank where election process had not set in motion as identical State Government having permitted the elected Boards of two other Co-operative Banks to continue even though their elected term had expired; the order of appointment of the Administrator in the case of instant Bank was violative of Article 14. But in the affidavit filed before the High Court, State Government had already explained that in the case of other two Banks, the election process had already commenced whereas in the case of instant Bank election process had not set in motion

and had been postponed. Supreme Court held that High Court erred in treating the two cases as identical so as to attract Article 14.

1993 Supp (1) SCC 556 = AIR 1992 SC 1975 State of Rajasthan v/s Praful Ranwali

Further extension of term Further extension of the initial period for which the Administrator was appointed is not contemplated in Section 33 of the Act.

1990 (2) KLT 917 Devasia Chacko v/s Joint Registrar

Prerequisite of publication of notice can be dispensed with Section 33 (1) Proviso - Appointment of administrator by Registrar - publication of notice under proviso - prerequisite of publication of notice can be dispensed with when the Registrar is satisfied that it is not reasonably practicable to do so. Satisfaction of the registrar has to be based on relevant materials and cogent circumstances and not on mere whims and fancies.

1990 (2) KLT 895 = AIR 1991 Ker NOC 37 = 1990 (2) KLJ 530 Antony Jerome v/s Joint Registrar

Further extension is not contemplated Further extension of the initial period for which the Administrator was appointed is not contemplated in Section 33 of the Act.

1990 (2) KLJ 792 V.T. Sebastian v/s Joint Registrar and others

Tendering of resignation means termination Section 31 (1) - Explanation to Section 33(1) of the Act clearly states that for the purpose of the sub-section tender of resignation shall have the effect of terminating his membership from the committee. That being so the member cannot go back on his resignation in so far as the resignation invites action under Section 33 (1) of the Act. He could not have withdrawn the resignation so as to get over the effect of termination of his membership for the purpose of Section 33(1) of the Act.

1987 (2) KLT 420 Varma v/s Joint Registrar

Notice for Appointment of Administrator Publication of notice before appointment - Necessity.

1985 KLJ 335 Mohammed v/s Joint Registrar of Co-operative Societies, Cannanore

Section 33 is not violative of Article 14 A statute will not hit by Article 14 of the Constitution of India if necessary guidelines can be inferred from the provisions of the statute themselves. A mere possibility of abuse of the power is no ground for invalidating a statutory provision. Having regard to the purpose for which the societies are formed, the pattern of their functioning, the control and supervision which the Registrar exercise over the societies and the position which he occupies vis-a-vis the administration and the working of the societies the discretion which has been given to the Registrar has got sufficient guidelines from the statutory scheme. It is not unguided. The section is not violative of Article 14 of the Constitution

1982 KLT SN 11 = ILR 1982 (1) Ker 618 Rajagopal v/s Deputy Registrar

Express recital not necessary It is quite unnecessary that an order passed under Section 33 (1) should expressly recite that the requirement of notice has been dispensed with.

1974 KLT 189 = ILR 1974 (1) Ker 114 Deputy Registrar of Co-operative Societies v/s P.K. George.

Publication of notice regarding supersession of committee Co-operative Societies Act, 1969 (Kerala) - Section 33 (1) Proviso - Publication of notice regarding supersession of committee – It is not correct to say that the proceedings are invalid for want of publication of notice in the notice board of the head office inviting objection to the proposed action, as required by the first proviso to Section 33 (1) of the Act. *In this judgment* **AIR 1961 SC 1361 at 1387 Swadesi Cotton Mills Co. Ltd v/s State Industrial Tribunal, U.P.** *is relied on.*

ILR 1974 (1) Ker 114 = 1974 KLT 189 DB Deputy Registrar of Co-operative Societies and another v/s P.K. George

Until the term of the previous committee expires, there cannot be any failure on the part of the new committee to take charge Section 33 (1) (b) cannot be invoked on the ground that the Committee may, or even, will fail to enter upon office on the date specified in that provision, till that date arrives, and perhaps, till it has run out as well, it cannot be said that there is any failure on the part of the committee.

1974 KLT SN 44 Kuriakose v/s Deputy Registrar

Consultation is only directory The provisions relating to the consultation with the Circle Co-operative Union contained in Section 33 is only directory not mandatory.

1971 KLT 753 = 1971 KLJ 349 Hydrose v/s Deputy Registrar

FUNCTIONS OF ADMINISTRATOR

Administrator not to enrol new members Co-operative Societies Act, 1969 (Kerala) - Sections 33 (2) and 16 - Amended provisions does not confer any power on the Administrator to enrol new members either under Section 33 (2) or 16 (2).*In this judgment* **2000 (2) KLT 480 SC** *and* **1997 (6) SCC 37** *are relied on.*

2005 (3) KLT 348 DB Karunakaran Pillai v/s Venugopala Pillai

Enrolment of members Co–operative Societies Act, 1969 (Kerala) – Section 32 – Decision for enrolment of members by the Administrator – In the appropriate cases, administrator will have to confer membership,taking note of the contingencies.

We have to see the decision vis –a-vis, the objectives of the Society. To allege that it may change the character of a committee to be elected in future is pure absurdity, totally irrelevant and cannot be countenanced. One should not miss the woods by only noticing trees. Accepting the case of the petitioner, would push down the Institution to disrepute and litigation, especially when the administrator is not guilty of any indiscretion, and has exercised his discretion while dealing with the application. *In this judgment* **1998 (2) KLT 746, 2000 (2) KLT 480, 2002 (1) KLT 857** *and* **2002 (1) SCC 133**

are referred to.

2004 (2) KLT 1084 Shaji v/s State Co-operative Election Commission

Reviving an ailing society Co–operative Societies Act, 1969 (Kerala) – Section 32 – Administrative committee appointed to revive an ailing society – Only by enrolment of new members, life could have been injected to it – As the said committee appointed for the purpose of revival of an ailing society, it can enroll new members.

Under S.33 (2) of the Act, the Committee is to function under the control of the Registrar, and carry out instructions from time to time. They can exercise all or any of the powers and functions of the Committee. If the Registrar has authorized them to take steps for constituting a Director Board, the enrolment of members becomes a necessary prerequirement. Action is to be taken 'in the interest of the Society'. They are the key words, and therefore enrolment cannot be termed as objectionable, viewed from any angle. *In this judgment* **2004 (1) KLT 281, 1998 (2) KLT 746, 2000 (1) KLT 736** *and* **2000 (6) SCC 1271** *are referred to.*

2004 (2) KLT 887 Somanathan v/s Deputy Director, Dairy Development Society

Major Policy decisions cannot be taken by an Administrator Co-operative Societies Act, 1969 (Kerala) – Co-operative Society – Decisions taken by administrator on extraneous condiderations – Major Policy decisions cannot be taken by an Administrator and such decisions are to be decided by the appropriate managing committee elected.

It is settled law that major policy decisions cannot be taken by an Administrator and such decisions are to be left to be decided by the appropriate managing committee elected in accordance with law. The decision taken by the Administrator to advance a further loan of Rs. 1 crore when the bank found that the loanee was not capable of repaying the earlier loan and after writing off a substantial portion of the earlier loan appears to be a misuse of the resources of the bank. In such circumstances the decision taken by the Administrator requires a proper reconsideration considering the public interest involved in the matter. *In this judgment* **1999 (2) KLT 180** *and* **1995 (5) SCC 482** *are referred to.*

2003 (2) KLT 606 Thrissur District Co-operative Bank v/s State of Kerala

Removal of ineligible members Section 32 33, 16 - Administrator/ Administrative Committee has power to remove ineligible members after following the procedure prescribed--Co-operative Societies Rules, 1969 (Kerala), Rule 16

The role of an administrator or a committee appointed by the Registrar while the Committee of management is under supersession, is as pointed out by this Court, only to bring on an even keel a ship which was in doldrums. "The ship containing ineligible members is bound to be in doldrums and it can be brought to an even keel only if it deballast such burdens. The expulsion of ineligible members would in no way alter the composition of the Society. An Administrator/Administrative Committee and

for that matter the Committee of a society and the general body are bound to uphold the democratic values in a co-operative society. Expulsion of an ineligible member on following the procedure contemplated under the Rules is only in furtherance of the pursuit of democratic values and it is a statutory duty cast on the committee, the Administrator, the Administrative Committee or to the Registrar as the case may be. It is also significant in this context to note that the Legislature has made its intention clearer in the Act 1 of 2000 while amending Section 32 (4) and 33 (2) of the Act conferring the powers and functions of the committee of the society on the Administrator/Administrative Committee. It is to be noted that the unamended provision conferred only the functions of the committee on the Administrator/Administrative Committee. In this jufdgment **2002 (2) KLT 480** *and* **1997 (6) SCC 37** *are referred to.*

2002 (2) KLT 817 = 2002 (2) KLJ 179 Gopinathan Nair v/s Joint Registrar

Administrator has no right to enrol members Sections 32 and 33 - An Administrator appointed under S.33 has no right to enrol members.

It is clear that respondent No.6 in this Original Petition who is number 31 in the voters' list, is, ineligible to be included in the list of voters for the election to the Managing Committee of the second respondent apex society in view of the fact that the member was enrolled as a member or given affiliation as a member of the apex society only by the Administrator. *In this judgment* **1998 (2) KLT 746** *and* **2000 (2) KLT 480 SC** *are referred to.*

2001 (3) KLT 215 DB Viswanathan v/s The Assistant Registrar of Co-operative Societies

Administrators have no power to enrol new members Co-operative Societies Act, 1969, (Kerala) - Sections 32 and 33 – Administrator or an Administrative Committee have no power to enrol new members - A co-operative society is expected to function in a democratic manner through an elected committee of management and that committee of management is empowered to enrol new members.

What it is necessary to bear in mind is that nature of function or power exercised and not the manner in which it is done. What is of significance is that when the Committee of Management of the Co-operative Society commits any default or is negligent in the performance of the duties imposed under the Act, Rules and Bye-laws, which is prejudicial to the interest of the society, the same is superseded and an administrator or an administrative committee is to set right the default, if any, and to enable the society to carry on its functions as enjoined by law. Thus, the role of an administrator or a committee appointed by the Registrar while the Committee of management is under supersession, is as pointed out by this Court, only to bring on an even keel a ship which was in doldrums. If that is the objective and is borne in mind, the interpretation of these provisions will not be difficult. *In this judgment* **1997 (6) SCC 37** *and* **2000 (1) KLJ 291 FB** *are referred to and* **1998 (2) KLT 746** *is affirmed.*

2000 (2) KLT 480 = 2000 (1) KLJ 787 = 2000 (6) SCL 127 = AIR 2000 SC 2378 Joint Registrar of Co-operative Societies v/s T.A. Kuttappan

Suspension of an employee Constitution of India - Article 226 – Administrator cannot order suspension of an employee at the behest of the Registrar or the Government – Administrator has to apply his mind independently – Co-operative Societies Act, 1969 (Kerala), Ss.32, 33 and 66.

There cannot be an assumption that the Government has got the powers to intervene in the day-to-day administration of the co-operative society. In the above view of the matter, I am of the view that Ext.P4 order of suspension was passed by the Administrator without applying his mind at the instance of the Government. Hence Ext.P4 is set aside. Petitioner shall be taken back in the service of the Society and he shall be paid all the amount due to him. It goes without saying that if there are circumstances existing for the management or Administrator to suspend the petitioner from service, this judgment will not preclude them from passing proper orders under law. *In this judgment* **1995 (1) KLT 363 FB, 1992 (1) KLT 381** *and* **1988 (1) KLT 827** *are followed.*

2000 (2) KLT SN 85 P79 Ramakrishnan v/s Joint Secretary, Finance Department

Disposing of appeals filed under Rule 198 (4) Co-operative Societies Act, 1969, (Kerala) - Sections 32 and 33 – Administrator is empowered to dispose of appeals filed under R.198(4) of the Rules – Co-operative Societies Rules, R.198(4).

It cannot be said that the conferment of the right of hearing the appeal before the Board of Management is a power and not a function. The appeal is filed against the order of the Original Authority and the Appellate Authority have to see whether the order challenged by the appeal is correct and if it is not correct, pass proper orders. The administrator comes into play when the Board of Management was superseded to exercise the functions of the Board of Management. I see no reason why the appellate power to be exercised by the Board of Management cannot be exercised by the administrator. There is no policy involved in these matters. Admittedly, the administrator is to hear appeals against the order of the Lower Authority and the duty of the Appellate Authority is to find out whether the order passed by the Lower Authority is correct in accordance with law and if it is wrong, set aside and pass orders according to law. There is nothing preventing the administrator from hearing the appeals. *In this judgment* **1998 (2) KLT 746** *and* **1998 (2) KLT 1068** *are referred to.*

2000 (1) KLT 817 = 2000 (1) KLJ NOC 21 = AIR 2000 Ker 205 Mathew Kunju v/s Registrar of Co-operative Societies

Powers of Administrator to enroll members Co-operative Societies Act, 1969, (Kerala) - Sections 32 and 33 – Powers of Administrator to enroll members – Decision reported in 1998 (2) KLT 746 that Administrator has no power – The judgment will act only prospective and not retrospectively.

There are several decisions of the Supreme Court where relief was so moulded not to affect past transactions in public interest. In the present case there is no dispute regarding the appointment of the administrators, but the dispute relates to their exercise

of certain jurisdiction which they had in them according to the interpretation of S.33(4) by the binding decision of this Court during the relevant period. According to us, if we have to hold that in the light of the declaration of law in 1998 (2) KLT 746 all members enrolled by the administrators from the year 1981 onwards or even earlier period are disqualified, it would certainly end up the functioning of the societies in chaos. Such an action will be totally against public interest. According to us, this Court will be fully justified in holding that the decision will have only prospective effect. We make it clear that parties to the Original petitions which were subject matter of the Full Bench decision are bound by the judgment. *In this judgment* **1998(2) KLT 746** *is explained and* **AIR 1967 SC 1643, AIR 1991 SC 471, 1995 Supp (2) SCC 560, 1995 (1) SCC 184, 1985 Lab IC 1481, AIR 1980 SC 1037, AIR 1996 SC 484, 1998 SCC 245, AIR 1981 SC 1473** *and* **AIR 1970 Ker 165** *are referred to.*

2000 (1) KLT 730 FB = 2000 (1) KLJ 291 FB Cherthala Agricultural and Rural Development Bank v/s Joint Registrar

Appointment in a co-operative society Sections 32 and 33 - Administrator or administrative committee appointed by the Registrar under Sections 32 and 33 have no power to effect regular appointment in a co-operative society.

The Government or the Registrar of Co-operative Societies has no power to effect appointment in a Co-operative society under Sections 32 and 33. Registrar has got power to remove the committee and appoint administrator or administrators or administrative committee. In other words, the Registrar is exercising powers through the officers appointed by him. The statute has not delegated the power to effect appointment in a society to the Registrar. Administrator is only a delegate appointed by the Registrar. A sub-delegate cannot exercise powers which even the delegate does not possess. The power to effect appointment in a co-operative society is vested in the general body. Administrator or administrators is or are only expected to manage the affairs of the society and to exercise the functions of the committee and not expected to exercise 'powers' of the elected committee. Therefore, the principle laid down by the Full Bench is squarely applicable to the case of appointment as well during the tenure of the administrator or administrators or committee. Therefore, since Registrar of Co-operative Societies has no power to effect appointment, administrator or administrators appointed by the Registrar of Co-operative Societies cannot exercise the power which even the appointing authority does not possess. Therefore, if an administrator or administrators effects regular appointment in a society that appointment will be without jurisdiction, ultra vires and void.

1998 (2) KLT 1068 Raghavan Nair v/s Joint Registrar of Co-operative Societies

Those appointments done by the Administrator will go when the term of Administrator is over Co-operative Societies Act, 1969 (Kerala) - Sections 32 and 33 - If the Registrar is given permission to make appointment provisionally considering the dearth of staff, those appointments done by the Administrator will go

when the term of Administrator is over.

ILR 1999 (1) Ker 424 = 1999 Lab lC 528 Raghavan Nair v/s Joint Registrar of Co-operative Societies and others

No power to enroll new members Co-operative Societies Act, 1969 (Kerala) - Section 32 - An Administrator appointed under Section 32 (4) will have no power to enroll new members – administrator is only expected to carry on the day to day functions of the Society and conduct the election. *In this judgment* **JT 1997 (5) SC 680 K. Santharaj and another v/s M.L. Nagaraja and others** *is relied on,* **1985 KLT 836 George v/s Joint Registrar, 1980 KLT 658 Sudhakaran v/s Deputy Registrar of Co-operative Societies, 1988 KLT 624 Gangadharan v/s Administrator** *and* **1992 (1) KLT 669 John v/s Joint Registrar** *are overruled and* **1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Socieities** *is affirmed.*

ILR 1999 (1) Ker 228 = 1998 (2) KLT 746 FB Hassan v/s The Joint Registrar or Co-operative Societies and others

Administrator has to comply with time limitations vide Rule 35 (1) Co-operative Societies Act, 1969 (Kerala) - Section 28 (1 B) and Rule 35 (1) - Administrator has to comply with the time limitations in the Rule and subject to that he has to exercise his power under Section 28 (1 B).

ILR 1992 (3) Ker 401 = 1992 (2) KLT 220 = 1992 KLJ 28 DB State of Kerala and others v/s P. Thilothaman and another

Requirement of notice is not necessary under second proviso hence order is not invalid The administrator is entitled to assume charge even without formal handing over the charge by the Committee on the strength of the order of appointment. The Administrator is entitled to assume charge even without a formal handing over of the same either by the chairman or the managing committee. Under Rule 47 of the rules the custodian of the records and the properties of the society is its chief executive and not either the chairman or the committee. There is no procedure prescribed for handing over of records and properties to the committee. There is no procedure prescribed for handing over of records and properties to the Administrator by the committee or chairman. He can assume charge on the strength of the order of appointment by the Registrar. *In this judgment* **1992 (2) KLT 510 = 1992 KLJ 180 P. Sasi v/s Registrar of Co-operative Societies** *is reversed.*

1992 (2) KLJ 769 = 1992 (2) KLT 942 Registrar of Co-operative Societies v/s P. Sasi and others

The term 'manage' taken within its ambit everything that falls for decision in the interests of the society including enrolment of members Section 28 (1 A) - The power conferred on the administrator is the power to manage the affairs of the society. The right to manage the affairs of the society is not the right merely to manage its day to day routine matters. The term 'manage' taken within its ambit everything that falls for decision in the interests of the society. What the

administrator does when he assumes office is to displace the managing committee and get substituted in its place. He steps into the shoes of the committee. Nowhere in the Act or the Rules is it stated that the powers of the Administrator are less comprehensive than those of the managing committee. An Administrator is appointed to ensure continuity in the administration and not to create any hiatus or stagnation in its working. An Administrator appointed to manage the affairs of the society could exercise all those powers which the managing committee could itself have exercised if it were in office, which could be restricted by express provision in the order of appointment or in exercise of the powers of the Registrar by issuing directions under Section 66. But in the absence of any provision so limiting his powers, or directions, it has to be taken that his powers are plenary. Enrolment of members is one of the normal functions of management, within the purview of the powers of the managing committee, and therefore of the administrator.

1992 (1) KLT 669 = 1992 (1) KLJ 622 John v/s Joint Registrar

An ordinary member can represent the society as delegate Section 33 - Co-operative Societies Rules, Rule 44 A - An ordinary member of the society can represent the member society in the election to the Board of Directors of the central society when the affairs of the member society is brought under the control of administrator appointed under Section 33 of the Act. Since the administrator is appointed after superceding the committee, it will not be possible for the society to send any one other than its member as a delegate to the central society when it is under the control of the administrator. When the affairs or functions of the society are vested in the administrator, there is no question of electing a member of the committee of that society to represent it in the central society.

1990 (2) KLT 917 = AIR 1991 Ker 309 Devasia Chacko v/s Joint Registrar

Administrator has no voting right in the election of central society Section 33 (2) - The Act and the Rule reveals that a delegate who is a member of the society alone can vote in the election to the Committee of the central society. The administrator not being a delegate of the member society, has no voting right in the election of the central society. The only role the administrator can play is to manage the affairs of the society which a committee could have performed.

1990 (2) KLT 917 = AIR 1991 Ker 309 Devasia Chacko v/s Joint Registrar

Administrator has no voting right in the election of central society The purpose of appointing Administrator under this section is only "to manage the affairs of the society till a new committee enters upon office". Administrator of the member society has no voting right in the election of the central society

1990 (2) KLJ 792 V.T. Sebastian v/s Joint Registrar and others

No power to enroll new members Sections 33 (2) & 32 (4) - The power given to the Administrator to exercise all or any of the functions of the committee under Sub-section (2) of Section 33 would not talk in the power to enroll new members.

If we apply the dictum laid down by the Supreme, Court in **JT 1997 (5) SC 680**, the provisions under Sections 32 and 33 would not be sufficient to give him the power to enrol new members. The Apex Court had specifically posed the question regarding the power to enrol new members in paragraph 8 of the judgment and held that the administrator has no power to enroll new members since such a power is not specifically given under the Act, Rules and Bye-laws and that such a power cannot be spelt out from the authority given to conduct the election. Therefore, the view taken by this Court in 1985 KLT 836 that the power given to the administrator to exercise all or any of the functions of the committee under Sub-section (2) of Section 33 would take in the power to enrol new members is impliedly over-ruled by **JT 1997 (5) SC 680**. *In this judgment* **JT 1997 (5) SC 680 K. Shantharaj & Another v/s M.L. Nagaraj & others** *is followed,* **1985 KLT 836 George v/s Joint Registrar** *is overruled,* **1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies, 1980 KLT 658 Sudhakaran v/s Deputy Registrar of Co-operative Societies, 1988 (1) KLT 624 Gangadaran v/s Administrator** *and* **1992 (1) KLT 669 John v/s Joint Registrar** *are referred to.*

1988 (2) KLT 746 FB Hassan v/s Joint Registrar of Co-operative Societies

It may be sufficient to discharge only routine functions Administrator or Administrative Committee are only nominees of the Registrar. It is not desirable that they should enable to exercise all the powers and functions of the Managing Committee; it may be sufficient to enable them to discharge only routine functions.

1988 (1) KLT 624 Gangadharan v/s Administrator

Power of appointment and withdrawal of a delegate Administrator appointed under Section 33 has the powers to discharge the functions of the Managing Committee and such functions include the power of appointment of a delegate and withdrawal of delegate.

1988 (1) KLT 624 Gangadharan v/s Administrator

Restrictions imposed by the Registrar including appointment and withdrawal of delegate Sections 32 and 33 - Administrator under Section 33 - Powers same as that of elected or nominated Managing Committee in management of affairs of society subject to restrictions imposed by the Registrar including appointment and withdrawal of delegate.

1988 (1) KLT 624 Gangadharan v/s Administrator

Administrator has the power to admit new members Co-operative Societies Act, 1969 (Kerala) - Section 33 - Administrator appointed to manage the Society has the necessary power to admit new members. *In this judgment* **1980 KLT 658 Sankaran v/s Deputy Registrar of Co-operative Societies** *and* **1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies** *are referred to.*

ILR 1986 (1) Ker 407 DB P.K. George v/s The Joint Registrar of Co-operative Societies, Calicut and others

Administrator has power to admit new members Section 33 - In its absence, the administrator functions as the managing committee. When there is no elected committee, the administrator is the dejure committee in power, enjoying all the powers of the committee. If the committee was entitled to enroll new members, the administrator also has the same powers. The powers of the administrator can be curtailed in appropriate cases by the Registrar who appoints or by this Court under Article 226 of the constitution. The administrator is not a body subordinate to the Committee or Board of Directors. He is the Committee or the Board itself. The administrator of the society appointed to manage the society has the necessary power to admit new members. *In this case* **1985 KLT 446** *is overruled*

1986 (1) ILR 407 = 1985 KLJ 917 DB PK George v/s The Joint Registrar of Co-operative Societies, Calicut and others

If appointment of Administrator declared by court as illegal Enrolment of members for election by Administrator is unauthorised, illegal and invalid.

1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies

The Administrator who is a stop-gap arrangement, cannot tinker with the constitution of membership Section 33 and 16 - The membership of a society is something more important and more fundamental than a matter relating to the routine management of a society. It cannot be treated as a matter of management. The Administrator who is a stop-gap arrangement, cannot tinker with the constitution of membership of the society. In so far as the role the Administrator has to play in relation to a Co-operative Society, only a restricted meaning should b e given to the word 'manage' as occurring in Section 33(2) of the Act. If the Administrator did not have legal authority to function as such, the enrolment of new members by the Administrator was unauthorised, illegal and invalid.

1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies

Administrator appointed new members without any application of mind Rule 16 - Co-operative Societies Act, 1969, (Kerala), Section 105 - The names of hundreds of persons have been enrolled though they were not residents within the area of the Society. The admission of new members by the Administrator had been made without any application of mind as to the essential qualification for enrolment as members. If a person is shown to be a voter in a constituency outside the area of the society, that would be prima facie evidence of his lack of residential qualification. The election is to be declared as null and void, in as much as persons who have not been properly admitted as members of the society have been permitted to decide the destiny of a society in which they could not, in law, participate at all.

1985 KLT 446 Gopalan v/s Joint Registrar of Co-operative Societies

ADMINISTRATOR GENERAL MATTERS

Once it is held that the Administrator has no power to enroll new

members, only the Supreme Court can hold that the law declared will be applied prospectively Co–operative Societies Act, 1969 (Kerala) – Sections 33 (2) and 32 (4) – Interim Administrator appointed under S.33 – Once it is held that the Administrator has no power to enroll new members, no Court other than the Supreme Court can hold that the law declared will be applied prospectively.

The high Court can mould the relief considering the facts of the case as Art. 226 of the Constitution of India is a discretionary remedy. It can dismiss a Writ Petition for laches, delay, existence of alternate remedy, etc. without considering the serious legal questions raised. No courts can mould the relief in factual situations not placed before it. **Cherthala Agricultural Rural Development Bank Ltd's case 2000 (1) KLT 730 FB** was decided on the facts of those cases before the Full Bench. The Court was only moulding the relief on the facts of the cases before it. *In this judgment* **1998 (2) KLT 746, 2000 (1) KLT 730, 2000 (6) SCC 1271, 1997 (6) SCC 37, 1985 KLT 836, 1985 KLT 446, 2003 (7) SCC 197, 1998 (8) SCC 245, AIR 1967 SC 1643, AIR 2001 SC 1723** *and* **AIR 1999 SC 3886** *are referred to.*

2004 (1) KLT 281 = 2004 Ker 117 DB Porinchu v/s Joint Registrar

Arbitrary action on the part of the authorities to meddle with the democratic functioning of a society Section 33 (1) - Second proviso to S.33 (1) cannot be interpreted in such a way as to take away the effect of the first proviso - It is only in cases where the circumstances show that issue of a notice under the first proviso is reasonably not practicable that a notice can be dispensed with.

The second proviso to S.33(1) cannot be interpreted in such a way as to take away the effect of the first proviso and it is only in cases where the circumstances show that issue of a notice under the first proviso is reasonably not practicable that a notice can be dispensed with. Any other interpretation would nullify the effect of the first proviso and lead to arbitrary action on the part of the authorities to meddle with the democratic functioning of a society. *In this judgment* **1994 (2) KLT 238, 1992 (2) KLT 942** *and* **1974 KLT 189** *are referred to.*

2001 (1) KLT SN 12 P 10 = ILR 2001 (1) Ker 62 Thomas v/s Jaihind Powerloom Industrial Co-operative Society Ltd

Total non-application of mind If there is total non-application of mind and the order has been passed on materials totally irrelevant then jurisdiction under Art 226 of the Constitution can be invoked. Even in case of denial of malafides, the court can enquire into the truth of the allegation and afford appropriate relief.

1997 (1) KLJ 607 = 1997 (2) KLT SN 1 T.T. James v/s Joint Registrar

Democratic process relating to the working of the Society should not be violated Co-operative Societies Act, 1969 (Kerala) - Section 33 - Appointment of Administrar to be made only on strong and valid grounds - Democratic process relating to the working of the Society should not be violated.

ILR 1995 (3) Ker 175 = 1995 (1) KLJ 728 = 1995 (1) KLT 772 Sundaram Pillay v/s Joint Registrar and others

Period of extension only for sound reasons Co-operative Societies Act, 1969 (Kerala) - Section 33 (1) (b) (ii) - Appointment of administrator for a Society – Period of the administrator should not be extended beyond the statutory period – Extension only for sound reasons.

ILR 1995 (3) Ker 175 = 1995 (1) KLJ 728 = 1995 (1) KLT 772 Sundaram Pillay v/s Joint Registrar and others

Every illegal order or act of public authority, need not be quashed Art.226-Kerala Co-operative Societies Act (1969), Sections 32, 33 - Extraordinary jurisdiction - Every illegal order or act of public authority, need not be quashed - Court has to consider if it would be just to interfere-Registrar's order under Section 33 of the Act without jurisdiction in extending term of Administrator of Co-operative Society Executive Committee of the Society since superseded, removal of Administrator would have left leave its affairs unlooked after and non-removal tantamounting to tolerating ultra vires act of Registrar-Petition seeking removal of Administrator, declined.

In the instant case Registrar of Co-operative societies extended the term of Administrator from beyond one year under Section 33 of Kerala Cooperative Society Act to look after the affairs of Kalamachal Handloom Weavers' Co-operative Society Limited since its executive committee had been superseded. The ousted committee sought for removal of administrator. Held, on the one hand removal of Administrator would leave the society with one to look after its affairs and on the other non-removal would tantamount to tolerating ultra vires act of Registrar in extending terms of Administrator and as such petition under Art.226 is not maintainable since instead of aiding the cause of justice it would result in chaos and disorder discloacting the working of the society.

AIR 1995 Ker 202 R. Thulaseedharan and another v/s State of Kerala and others

Administrator shall be appointed only if the committee failed to take step to hold an election Co-operative Societies Act, 1969 (Kerala) - Section 28 (1 A) as amended by Act 5 of 1992 - Scope of – If the term of the committee has not expired on 7th February, 1992 an Administrator or a committee shall be appointed only if the committee failed to take step to hold an election. *In this judgment* **O.P. No. 1812/92 Ali Hassan v/s State of Kerala and others** *is referred to.*

ILR 1993 (2) Ker 773 = 1992 (2) KLT 526 DB Bappu Haji v/s Joint Registrar of Co-operative Societies and others

Administrator assuming charge Section 33 : Administrator is entitled to assume charge even without a formal handing over of charge by the committee on the strength of the order of appointment.

1992 (2) KLT 942 = 1992 (2) KLJ 769 DB Registrar of Co-operative Societies v/s Sasi

The rights of the members to have the administration carried on by their duly elected representatives stand suspended during the reign of administrator Section 33 (1) Proviso - The appointment of an Administrator is a matter of serious import for the society and its members. Where by the democratically elected committee is superseded and a nominee of the department assumes control and management of the society. The rights of the members to have the administration carried on by their duly elected representatives stand suspended.

1990 (2) KLT 895 = AIR 1991 Ker NOC 37 = 1990 (2) KLJ 530 Antony Jerome v/s Joint Registrar

Power to appoint administrator is not arbitrary or unguided Co-operative Societies Act, 1969 (Kerala) - Section 33 - Power conferred on the Registrar to appoint administrator or committee to manage the affairs of a Society is not arbitrary or unguided and therefore not discriminatory. *In this judgment* **AIR 1974 SC 2009 Maganal Chhaganlal (p) Ltd v/s Municipal Corporation of Greater Bombay, AIR 1979 SC 1588 Commissioner of Sales Tax M.P. and others v/s Radhakrishnan and others** *and* **ILR 1973 (2) Ker 511 Balakrishnan Nair v/s State of Kerala and others** *are relied on.*

ILR 1982 (1) Ker 618 = 1982 KLT SN 11 A.M. Rajagopal and others v/s The Deputy Registrar of Co-operative Societies and others

The court will find out whether the conditions precedent to the formation of the opinion have a factual basis The powers are conferred on public authorities to exercise the same when "they are satisfied" or when "it appears to them" or when "in their opinion" a certain state of affairs exists or when powers enable the authority to take "such action as they think fit" in relation to the subject matter, courts will not readily defer to conclusiveness of the opinion as to existence of a matter of law or fact upon which the validity of the exercise of the power is predicted. The court will find out whether the conditions precedent to the formation of the opinion have a factual basis.

AIR 1974 SC 2249 Rasheed v/s State *See also* **1981 KLT SN 65 = AIR 1982 Ker 12 Jose Kuttiyani v/s Registrar**

The president has sufficient locus standi to maintain a writ The president of the society has sufficient locus standi to maintain a writ petition challenging the appointment of an Administrator.

1974 KLT 189 = ILR 1974 (1) Ker 114 Deputy Registrar of Co-operative Societies v/s George

Administrator becomes functus officio If the Administrator is appointed for a period then after the expiry of the periods he becomes functus officio and he cannot pass orders in connection with the affairs of the Society.

1974 (76) PLR 31 Naginder Singh v/s State of Punjab

Order made for ulterior purpose Relevant consideration is whether the

order was made for ulterior purpose or purposes other than those mentioned in the order.

1969 KLT 883 K. Kunhambu v/s Registrar of Co-operative Societies

Malafides in the sense of non-application of mind It is no doubt true that there can be malafides in the sense of non-application of mind to the question involved though there is no evidence of any personal grudge, corrupt motive or other improper purpose

1968 KLT 613 Varkey v/s State

RULES

R47. Custody of cash, securities, records, sales etc. of a society :- (a) It shall be the duty of the paid Secretary/Manager of every society to maintain and keep in proper form all the accounts, registers, other records and the seal of the society, under his safe custody and shall be personally responsible for their safety. He shall also be the custodian of cash, securities and all other properties of the society subject to the overall control of the President.

(b) If there is no paid Secretary/Manager it shall be duty of the President to arrange to maintain the accounts and registers in proper form and to keep the cash balance and other assets including bonds and securities under safe custody. He will also act as Treasurer of the society in cases where there are no specific provisions in the bye-laws to elect or appoint a Treasurer. Where there are other arrangements for the safe custody of the cash balance by the Secretary and the cashier under double lock system the responsibility to account for the cash balance to the Committee will be that of the Secretary.

[*(c) The President and Secretary/Manager/Treasurer or President where there is no paid Secretary/Manager/Treasurer] shall be bound to produce the records, cash balances and other assets, before the officers of the Department and other persons authorised by the Registrar by general or special order for verification, inspection [**xxx] or inquiry, etc.

(d) Notwithstanding anything contained in the above clauses, the committee of the society shall primarily be responsible for the maintenance and safety of all accounts, records, cash and other assets of the society. It shall be the duty of the committee to see that the Officers concerned discharge their functions and perform their duties as laid down in these rules and the bye-laws.

[**(e) It is the responsibility of the Chief Executive to see that all the registers and accounts are written up properly and completely and produced for audit within a period of three months on completion of the accounting year. Any lapse on the part of the Chief Executive in this regard will be considered as an offence under sub-section (4) of section 94 of the Act.]

CASE LAWS

Sanction for prosecution Prevention of Corruption Act, 1947 - Sections 2 and 6 - Public servant - Sanction - President or an elected member of the governing body or Board of Directors of a Co-operative Society is a public servant - Authority competent to give sanction for prosecution is the Government - Conviction and sentence cannot be set aside merely on the ground of absence of proper sanction. *In*

*Substituted by SRO 1317/90

**Omitted and inserted by SRO 380/2000

this judgment **1976 KLT 134, 1977 KLT 131, 1978 KLT 860 = 1979 (2) SCC 117** *and* **1999 SCC Crl 1494** *are referred to.*

2005 (1) KLT SN 74 C 97 DB Sagar Thomas v/s State

Definition of Public servant Prevention of Corruption Act, 1988 - S.20(ix), S.20(iii) – Public servant – Definition of – Employees of Co-operative Society controlled or aided by Government are public servants – Their non-inclusion in C1.(ix) does not exclude them from definition of public servants –C1.(ix) has a different purpose – Moreover definition has to be construed in purposive manner.

2003 (1) KLT 649 = 2003 (1) KLJ 195 DB Government of Andhra Pradesh v/s District Co-operative Central Bank Ltd

No sanction is required for prosecution of the President of a Co-operative Society Prevention of Corruption Act, 1988 - Section 19 – Sanction for prosecution – Prosecution against the President of a Co-operative Society – Held – As far as the President of a Co-operative Society is concerned there is no sanctioning authority – No sanction is required for prosecution.

Under S.19 of the Prevention of Corruption Act, 1988, in the case of a person who is employed in connection with the affairs of the Union sanction has to be obtained from the Central Government.

2000 (2) KLT 137 Francis v/s Johny Chandy

Requirement to file list of witness before Special Judge Prevention of Corruption Act, 1988 - Section 22 (a) - Requirement to file list of witness before Special Judge – Accused has no right to examine any number of witnesses – Court has power to peruse the list and if it considers unnecessary persons have been included in the list it can short list such persons – It can reject even the entire list – See – Criminal P.C. 1973, S.243(1)

2000 (2) KLT SN 63 P 56 = 2000 (2) KLJ 21 SC DB Arivazhagan v/s State

Currency notes lying on the table of accused is not sufficient proof of acceptance of bribe Prevention of Corruption Act, 1947, Section 5 – Bribery case – Recovery – Currency notes lying on the table of accused – Not sufficient proof of acceptance of bribe.

2000 (2) KLJ NOC 3 SC FB Meena Balwant v/s State of Maharashtra

Absence of sanction to prosecute the public servant Prevention of Corruption Act, 1988 - Sections 19 (3) (a), 27 and 30 – Criminal P.C., 1973, S.465 – Absence of sanction to prosecute the public servant – Is not a ground to set aside the conviction and sentence for offence under Act of 1947.

2000 (1) KLJ NOC 12 SC DB C.B.I. v/s State of Haryana

Demand is not an essential ingredient of offence Prevention of Corruption Act, 1947, Sections 5 (1) (d) and 5 (2) – Demand for money – Demand whether an essential ingredient of offence under S.5(1)(d) – Held in the negative.

No one normally in this materialistic world given any amount to anyone without any purpose and more particularly without asking. The defence of the accused is that

currency notes are passed over to him by misrepresentation is not accepted as discussed hereinabove. Would anyone give any amount to anyone without any purpose? Would anyone retain any amount even given by mistake or by force or by misrepresentation, particularly when he comes to know about the same with him? In view of these facts when an amount is found, demand is implicit in the entire affair.

1999 (2) KLT SN 41 P 34 DB State of Gujarat v/s T. Karimbhai

Date of award may be taken as a Criteria for payments Article 14 - Favoured treatment in disbursement of amounts to the claimants who are willing to forgo two percent interest is arbitrary and violative of article 14 of the constitution of India. Date of award may be taken as a Criteria for payments.

1999(1) KLJ 750 Nowshad and other v/s K.S.R.T.C.

The bank should have approached the police Article 226 - Co-operative Bank challenges the genuineness of four bank guarantees in favour of the second respondent obtained by fraud. The bank should have approached the police and there to investigate it.

1999 KLJ TC 352 Payangadi Urban Co-operative Bank Ltd v/s Deputy Commissioner of I.T. and another

When the entrustment of money to the accused is proved, it is up to him to establish his innocence Prevention of Corruption Act, 1947, Section 5 (2) and 5 (1) (c) and (d) – When the entrustment of money to the accused is proved, it is up to him to establish by preponderance of probability that he has discharged his duty to disburse the amount as was expected of him.

The arguments advanced by counsel for the appellant that there are strong missing links in this case such as nobody has deposed that the appellant has taken the money and that the disputed signatures are not proved by expert evidence is of no force. When the entrustment of money to the appellant is proved, it is up to him to establish by preponderance of probability that he has discharged his duty to disburse the amount as was expected of him being the trustee of the amount. Therefore, the contention that important links in the chain of events are missing in this case, which entitled the appellant the benefit of doubt is absolutely unsustainable. Therefore, the finding of guilt, conviction and sentence entered by the lower court against the appellant has to be confirmed in these appeals.

1999 (1) KLT SN 29 P 29 = 1999 (1) KLJ NOC 40 Retnadas v/s State of Kerala

Disputes between two rival tenderers Article 14 - Unless the Court is satisfied that there is a substantial amount of public interest or the transaction is entered into malafide the court should not intervene under Article 226 in disputes between two rival tenderers.

1999 (1) KLJ NOC 24 DB Raunaq International Ltd v/s I V R constructions

Entries in books of account Words & Phrases-'Account', 'books of

account', 'regularly kept', 'business', abatement', admission', 'confession', meaning of-Evidence Act, 1872, Sections 34, 10 & 17.

Entries in books of account are not by themselves sufficient to charge any person with liability. There must be independent evidence of the transaction to which the entries relate and in absence of such evidence no relief can be given to the party who relies upon such entries to support his claim against another. As per the evidently value of entries relevant under Section 34 such entries though relevant are only corroborative evidence and it is to be shown by further independent evidence that the entries represent honest and real transactions an that monies were paid in accordance with those entries.

1998 (2) KLT SN 56 P 47 SC FB Central Bureau of Investigation v/s V.C. Shukla

If the accused ceases to be a public servant by the time the court can take cognizance of offence, no sanction is needed Prevention of Corruption Act, 1988 - Sections 2 (c) , 13 and 19 (1) - Sanction - Offence committed by a public servant - If he ceases to be a public servant by the time the court can take cognizance of offence, without any such sanction.

A public servant who committed an offence mentioned in the Act, while he was public servant, can be prosecuted with the sanction contemplated in Section 19 of the Act if he continues to be a public servant when the court takes cognizance of the offence. But if he ceases to be a public servant by that time the court can take cognizance of offence without any such sanction. His being a public servant is necessary when he commits the offence in order to make him liable under the Act. He cannot commit any such offence after he admits his offence.

1998 (2) KLT SN 38 P 33 SC DB Kalicharan v/s State of Orissa

Without a prior demand, there cannot be acceptance is not an abstract proposition Section 7 - It cannot be said as an abstract proposition of law that without a prior demand, there cannot be acceptance-See-Penal Code 1860, Section 161

1997 (1) KLT 544 SC = 1997 (9) SCC 477 = 1997 SCC (Cri) 654 Damodaran Nair v/s Government of India

Proof of either 'acceptance' or 'obtainment' Section 5 (1) (a), (b), (c) and (d) & 5 (2) - Statutory presumption under Section 4 (1) is available only in respect of offences under Section 5 (1) (a) & (b) not Section 5 (1) (c), (d) or (e).

'Obtain' means to secure or gain (something) as the result of request or effort. In case of obtainment the initiative vests in the person who receives and in that context a demand or request from him will be a primary requisite for an offence under Section 5 (1) (d) of the Act unlike an offence under Section 161 IPC, which as noticed above, can be established by proof of either 'acceptance' or 'obtainment'.

1997 (1) KLT 544 = 1997 (9) SCC 477 = 1997 SCC (Cri) 654 DB Damodaran Nair v/s Government of India

Prosecution to prove that money paid was not towards any lawful collection or legal remuneration Section 4 (1) - Difference between presumption under Section 114 of Evidence Act and legal presumption under Section 4 (1) - presumption under Section 4 (1) can arise only if prosecution proves that money paid was not towards any lawful collection or legal remuneration-Prevention of Corruption Act, 1989 Section 20 (1).

The presumption of law contemplate in Section 491) of the Act is in para materia the same as the legal presumption mentioned in Section 20 (1) of the Prevention of Corruption Act, 1988. Section 4 (1) of the Act enjoins that upon proof of a certain premise "it shall be presumed, unless the contrary is proved that" he accepted the gratification as a motive or reward etc. If the primary condition specified in the subsection is satisfied by the prosecution the Court is legally bound to proceed on the footing that the public servant/accused has accepted the gratification as a motive or reward for doing any official work in exercise of official functions. The burden stands shifted to the accused to prove the contrary. The difference between the presumption under Section 114 of the Exidence Act and the legal presumption under Section 4 (1) of the Act is that under the former it is only discretionary for the Court to draw presumptions as the court can as well decline from doing so, but under Section 4 (1) it is incumbent on the court to proceed on the presumption as the burden stands transferred to the accused to prove the contrary.

1997 (1) KLT SN 60 P 46 = JT 1997 (2) SC 232 DB M.M. Pathan v/s State of Maharastra

'Misconduct' - import and application of Sections 5, 13 (1) (c) (d) - Word 'misconduct' import and application of-It is not confined to a single act, it may embrace many similar acts-Such act effectively constitute offence under Section.

The gist of offence under Section 13 (1) (d) is that public officer abusing his position as public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage. Whether they abused their position or not depends upon the facts of each case. Conduct which constitutes a crime, consists of a person doing or omitting to do physical acts. Such conduct should be done with a particular intend either expressly manifested or impliedly suggested from the conduct.

1997 (1) KLT SN 29 P 22 = 1996 MLJ (Cri) 752 Acharyalu v/s State

Prosecution not justified where the accused is exonerated in departmental proceedings Section 5 (2) read with Section 5 (1) (e) - Person charged with offences under - Also proceeded with departmentally for some charges - Exonerated in departmental proceedings - Not justified in pursuing the prosecution.

The standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. The charge in the department proceedings and in the criminal proceedings case is one and the same. If the charge which is identical could not be established in a

departmental proceedings and in view of the admitted discrepancies in the reports submitted by the valuers, one wonders what is there further to proceed against the appellant in criminal proceedings. The appeal is allowed and the impugned criminal proceedings are quashed.

1997 (1) KLT SN 28 P 22 = 1996 MLJ (Cri) 741 DB P.S. Rajaya v/s State of Bihar

Trap witness deposing that accused did not touch currency notes but told him to keep same in his drawer Section 5 (1) (d), sub-section (2) - Acceptance of illegal gratification - Trap case - Recovery of tainted money from drawer of accused - Trap witness deposing that accused did not touch currency notes but told him to keep same in his drawer - His evidence not corroborated and suffering from infirmities - Accused given benefit of doubt - Penal Code 1860, Section 161

Versions of prosecution witnesses found contradictory as to whether the accused himself put the currency notes in drawer or he asked the trap witness to do so. The vigilance officer also admitted in cross-examination that any person who had access to the room of accused could put anything in the drawer of the table. In these circumstances, it is difficult to place implicit reliance on the evidence of trap witness to hold that the accused obtained illegal gratification in the manner spoken to by him and that at his instance he placed the money in the drawer of the table. By preponderance of probabilities, the accused has sufficiently shown that the plea put forward by him, namely, that in his absence somebody else might have put the tainted money in his drawer, is plausible. Therefore, it could not be said that accused tacitly accepted illegal gratification or obtained same within meaning of Section 5 (1) (d) of Act thereby entitling him to benefit of doubt.

1996 (1) KLT 88 = 1996 (1) SCC 720 DB Harshan v/s State of Kerala

Fraud Where one of the two innocent parties must suffer for a fraud, the party whose negligence facilitated the fraud is primarily responsible.

ILR 1996 (1) Ker 645 = 1995 (2) KLJ 621 DB State Bank of India v/s Kerala State Co-operative Marketing Federation and others

The social menace of ever-pervading corruption in all walks of life Prevention of Corruption Act, 1947 - Framing of the charges under the old Act alone is legally permissible even subsequent to its repeal, as respects offences which were committed during the period when the old Act was in force - Prevention of Corruption Act, 1988.

In order to curb the social menace of ever-pervading corruption in all walks of life, the old Act had been repealed and in its place a new Act had come into existence which contains rather suitable modifications and stringent provisions with a view to cleanse the public life, free from evils of corruption. In doing so, sufficient care, caution and circumspection had been taken by incorporating certain saving provision in the new Act, as to what is to happen with regard to certain acts done or purported to be

done during the currency of the old Act, subsequent to repeal. The saving provision, enables the institution of prosecution for such acts under certain contingencies. *In this judgment* **AIR 1955 SC 84 State of Punjab v/s Mohar Singh, AIR 1969 SC 701 Baliah v/s Rangachan, AIR 1975 SC 902 Tiwari Kanhaiyalal v/s I.T. Commissioner, Delhi, AIR 1979 SC 602 G.P. Nayyar v/s State (Delhi Administration)** *and* **AIR 1984 SC 684 R.S. Nayak v/s A.R. Antulay** *are referred to.*

1995 (2) KLT 594 = 1995 (2) KLJ 441 = ILR 1996 (1) Ker 74 Balakrishna Pillai v/s State of Kerala

Sanction is not a prerequisite Section 6 - Sanction under Section 6 of the Act is not a prerequisite for the prosecution of an acccused public servant under Section 55 when such accused person had ceased to be a public servant on the date of the taking cognizance of the offence by the special Judge. *In this judgment* **1957 SCR 1037 S.A. Venkataraman v/s The State** *is relied on.*

1994 (2) KLT 1057 = 1994 (2) KLJ 972 = ILR 1995 (1) Ker 827 Balakrishna Pillai v/s State of Kerala

A Magistrate cannot pass an order under Section 156 (3) of Prevention of Corruption Act Sections 4 & 5 - A Magistrate cannot pass an order under Section 156 (3) in respect of any offence which a Special Judge alone is competent to try under the Prevention of Corruption Act, 1988 - Criminal P. C. 1973. Section 156 (3). *In this judgment* **(1984) 2 SCC 500 A.R. Antulay v/s Ramadas Srinivas Nayak** *is relied on.*

1994 (1) KLT 403 = 1994 (1) KLJ 346 State of Kerala v/s Navab Rajendran

Committee cannot wash off their hands of liability Rule 47 (b) - Misappropriation of society fund - There is a statutory duty cast on the committee of the society for the proper custody and accounting of the cash and other assets of the society and that they are answerable for any misappropriation of the same during their tenure. They cannot wash off their hands of liability, by contending that there was a Secretary in office.

1990 (2) KLT 594 Thrikkadavoor Service Co-operative Society Ltd v/s Sivasankara Pillai

RULES

R40. Remuneration payable to new committee, administrator or administrators appointed by the Registrar:- The Committee or Administrator or Administrators appointed under Sections 32 and 33 shall be eligible for remuneration at the rates fixed by the Registrar. The expenses thereof shall be borne by the society or societies concerned.

R48. Payment of travelling allowance, daily allowance and sitting fees to the members of the societies and of the committee:- (1) Members of one society attending [*the general body meeting] of another society may be paid travelling allowance to and from their usual place of residence and daily allowance by the former society, but they shall not be given any sitting fees.

(2) Members of the committee may be paid by the society travelling allowance to and from their usual place of residence as well as daily allowance or sitting fee for attending the meetings of the committee [**xxx].

(3) Members of the Committee proceeding on tour in connection with the business of the society may be paid travelling allowance and daily allowance in respect of such tours by the society.

(4) No member of a society or the committee thereof shall, if he had claimed or drawn any allowances from the society, which he represents, draw any travelling allowance or daily allowance in respect of any journey made to attend any meeting of another society, from that other society or from any other society whose meetings also he attended, on the same journey. If however a member of a society or the committee thereof, is detained at the headquarters of the society, for a period not exceeding seven days in order to attend a meeting of the general body or committee of another society, that other society shall pay daily allowance to that member for the number of days he is so detained.

(5) The Registrar shall fix the maximum rates of travelling allowances and daily allowances or sitting fees for any society or class of societies and each society may fix the rate in its own bye-laws with reference to its financial resources.

R49. Payment of remuneration to Committee members of Societies :- A society may pay remuneration or honorarium to the members of the committee based on the extend of business done by such members with the society or on the value of service rendered by such members to the society or on such other basis as may be laid down in the bye-laws of the society for the purpose and with the approval of the Registrar

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* Substituted by SRO 1317/90

** Omitted by SRO 510/69

R50. Prohibition against being interested in contract etc :- (1) No officer of a Co-operative society shall have an interest, directly or indirectly otherwise than as such officer:-

(a) in any contract made with the society; or

(b) in any property sold or purchased by the society; or

(c) in any other transaction of the society except as investment made or as loan taken from the society, or the provision of residential accommodation by the society, to any paid employee of the society.

(2) No officer of a co-operative society shall purchase directly or indirectly, any property of a member of the society, sold for the recovery of his dues to the society.

CASE LAWS

Sitting fee against the provisions of the bye-laws can be recovered The amount paid to the members of the Board of Directors of a society as sitting fee against the provisions of the bye-laws can be recovered - In the absence of the bye-laws entitling the petitioners to receive sitting fee as directors of the board, payments made to them on that account is illegal and that the directions of the Registrar to refund the same is justified and the proceedings initiated under Section 68 (2) held as valid.

RP 276 *of* **1997** *in* **WA 1583/96 = ILR 1998 (1) Ker 170 Naveen Kumar and others v/s Joint Registrar**

If bye-laws does not provide for payment of sitting fee, the same cannot be paid Rules 48 and 180 - Rule 48 (2) is only an enabling provision and not mandatory - If bye-laws does not provide for payment of sitting fee, the same cannot be paid.

Provisions of Rule 48 have to be read with Rule 180 of the said Co-operative Societies Rule. Rule 180 states that no society shall do any act which is not expressly provided for by the bye-laws of such society without the previous express sanction of the Registrar for the same Sub-rule (2) and (5) of Rule 48 postulate that there should be a bye-law to enable the members of the society to draw the sitting fee at the rate not exceeding the maximum rate prescribed by the Registrar. Rule 180 forbids any such act of the society, namely payment of sitting fee, in the absence of any express provision in the bye-law or in the absence of express sanction by the Registrar. There is neither any express provision in the bye-laws of the bank nor is there any express sanction by the Registrar empowering the bank to pay the sitting fee to its members after the adoption of model byelaws. Any payment thereafter is therefore illegal. It is, however, left to the discretion of the Society to frame a bye-law and obtain the approval of the Registrar to enable the members to draw sitting fee, if there is none.

ILR 1997 (3) Ker 583 = 1997 (2) KLT SN 22 DB Naveenkumar R. and others v/s Joint Registrar and another

ACT

S34. Securing possession of Records etc:- (1) If the committee of a society is reconstituted at a general meeting of the society or the committee of a society is removed by the Registrar under Section 32 or a new committee or Administrator or Administrators is or are appointed under Section 33 or if the society is ordered to be wound up under section 71 and the outgoing members of the committee refuse to hand over charge of the records and property of the society to the new committee or Administrator or Administrators or the liquidator, as the case may be, or if an outgoing president or secretary who is the custodian of the records and property of the society refuses to hand over charge of the records and properties of the society to his successor, the new committee or administrator or administrators or the liquidator or the President or Secretary may with the previous sanction of the Registrar apply to the Magistrate within whose jurisdiction the society functions, for securing the records and properties of the society.

(2) On receipt of an application under sub-section (1), the Magistrate may, by a warrant, authorise any Police Officer, not below the rank of Sub Inspector, to enter and search any place where the records and the property of the society are kept or are believed to be kept and to seize such records and property, and the records and property so seized shall be handed over to the new committee or Administrator or Administrators or the liquidator or the president or secretary, as the case may be.

(3) Where the Registrar or any other officer not below the rank of the Assistant Registrar of Co-operative Societies authorised by him in this behalf in the course of audit, inspection, inquiry or supervision is of opinion that there is room to suspect gross negligence of duties, misappropriation or misuse of funds of the society or irregularity in recording proceedings or keeping accounts or books or is satisfied that the records, registers or the account books of a society are likely to be tampered with or destroyed and the funds and property of a society are likely to be misappropriated or misapplied, he shall have power to take possession of any or all of the books, registers, securities or documents cash in hand or account books of the society and remove such seized records and property and to deal with them in any manner as may be directed by the Registrar.

(4) The Registrar or other officer seizing the records and property of a society under sub-section (3) shall prepare an inventory of the records and property seized in duplicate with his signature and require the officer, employee or members of the society from whose custody the records and property are seized to affix his signature in witness thereof and, if such officer or employee or member refuses to sign, then the Registrar or other officer seizing the records and property shall cause two or more persons to sign the inventory as witnesses to the correctness thereof. A copy of the inventory prepared under this section shall be delivered to the officer, employee or member of the society from whose custody the records and property were seized.

CASE LAWS

Agenda of meeting A resolution passed on a subject not included in the agenda of meeting would be good only if all the members of the committee are present at the meeting and all of them waived the formality of a notice. When notice is given that particular business will be transacted in a meeting, no other business can be embarked upon in that meeting unless the whole body was present and consents.

1996 (2) KLT 942 = 1996 (2) KLJ 289 N. Sudarsanan v/s State of Kerala

Taking over of records There is distinction between assumption of charge of management and taking over of records. *In this judgment* **1992 (2) KLT 510 = 1992 (2) KLJ 180** *is reversed.*

1992 (2) KLT 769 Registrar of Co-operative Societies v/s P. Sasi

Entry in minutes book will not amount to taking charge of office Section 34 - Procedure contemplated in Section 34 has to be followed when outgoing Managing Committee refuses to hand - over charge of office including charge of records and properties. Question of assumption of the charge of the office not arising. Entry in minutes book will not amount to taking charge of office.

1992 (2) KLT 510 Sasi v/s Registrar of Co-operative Societies

Assumption of charge Section 34 - No distinction between assumption of charge of management and taking over of records.

1992 (2) KLT 510 DB Registrar of Co-operative Societies v/s Sasi

The executive magistrate in terms of the provisions contained in Section 3 (4) (b) of the Crl. P.C. is competent to entertain and deal with an application made under sub-section (1) of Section 34 of the Act.

1981 KLT 761 = 1981 KLN 668 Keecheri Handloom Weaves Co-operative Society Ltd v/s Sub Divisional Magistrate

An order passed by the Magistrate under sub-section (2) is not a judicial order, but is of an executive nature An order passed by the Magistrate under sub-section (2) is not a judicial order, but is of an executive nature. The Magistrate act as persona designata and not subordinate criminal court and hence a revision against the order is not maintainable.

1968 Mys LJ 430 = 1968 MLJ 9 Crl 343 State of Mysore v/s Hanumanthappa

Execution of documents Under Co-operative Societies Act, 1112 (Travancore) bye-laws provided that documents must be executed by the President, Secretary and two members of the Board. Letters of guarantee executed by the Secretary alone is not binding on the society outsiders are to enquire into powers of the officer.

1957 KLT 1079 The Travancore Central Cottage Industries Co-operative Societies Ltd v/s The United Bank of Travancore Ltd

CIRCULARS

The Circulars included in the Sahakarana Sarkular Samaharam are not reproduced in this volume. However, relevant portion of the index of that book is furnished below. Recent circulars follow this index. Unlike the original, the index and circulars are classified for the convenience of the readers as follows.

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32/2000	സഹകരണ സംഘങ്ങളിലെ കംപ്യൂട്ടർവത്കരണം നടപടിക്രമങ്ങൾ ലഘൂകരിക്കുന്നതിനുള്ള നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്.	636

നമ്പർ.എസ്റ്റിഎ(1) 20000/2000 ആർസിഎസ് സഹകരണസംഘം രജിസ്ട്രാരാഫീസ്, തിരുവനന്തപുരം, തിയതി 7.9.2000

സർക്കുലർ നമ്പർ 44/2000

വിഷയം: **സഹകരണ വകുപ്പ് കേരളത്തിലെ സഹകരണ വകുപ്പിന്റെ കീഴിലുള്ള സഹകരണ സംഘങ്ങളിലെ 1999.2000 വർഷത്തെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകളുടെ ശേഖരണം സംബന്ധിച്ച്**

സൂചന:

1999.2000 വർഷത്തെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിച്ച് തയ്യാറാക്കി അയക്കുന്നതിലേക്കു താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ ന ൽകുന്നു.

(1) 1999.2000 വർഷത്തെ വാർഷിക സ്ഥിതി വിവര കണക്കുകൾ തയ്യാറാക്കേണ്ടത് 1999 ഏപ്രിൽ 1 മുതൽ 2000 മാർച്ച് 31 വരെയുള്ള കാലയളവിലെ വിവരങ്ങളായിരിക്കണം.

(2) സംസ്ഥാന സഹകരണ ബാങ്ക് കേന്ദ്ര ഭൂവികസന ബാങ്ക്, ജില്ലാബാങ്കുകൾ, പ്രാഥമിക ഭൂവികസന ബാങ്കുകൾ എന്നീ സ്ഥാപനങ്ങളുടെ സ്ഥിതി വിവര കണക്കുകൾ ഈ ആഫീസിൽ നിന്നും നേരിട്ട് ശേഖരിക്കുന്നതാണ്.

(3) സഹകരണ വകുപ്പിന്റെ കീഴിൽ നിലവിലുള്ള മറ്റ് എല്ലാ സഹകരണ സ്ഥാപനങ്ങളുടേയും (പ്രവർത്തിക്കുന്നതും, അല്ലാത്തതും) സ്ഥിതി വിവര കണക്കുകൾ താലൂക്ക് തലത്തിൽ തന്നെ ശേഖരിക്കേണ്ടതാണ്.

4. 1998.99 വർഷത്തിൽ ഉപയോഗിച്ച അതേ ഫാറങ്ങൾ തന്നെയാണ് 1999.2000 വർഷത്തേക്കും ഉപയോഗിക്കേണ്ടത്. വിവരങ്ങൾ ശേഖരിക്കുന്നതിലേക്ക് ആവശ്യമായ ഫാറങ്ങൾ ശേഖരിക്കുന്നതിന് ഒരു ഉദ്യോഗസ്ഥനെ എല്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരും ഈ ആഫിസിലേക്ക് നിയോഗിക്കേണ്ടതും ആയത് ശേഖരിച്ച് ബന്ധപ്പെട്ട അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർക്ക് താമസം വരുത്താതെ വിതരണം ചെയ്യേണ്ടതാണ്.

(5) സംഘങ്ങളുടെ വാർഷിക സ്ഥിതി വിവര കണക്കുകൾ അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ ചുമതലപ്പെടുത്തുന്ന യൂണിറ്റ് ഇൻസ്പെക്ടർമാർ തന്നെ ശേഖരിക്കേണ്ടതാണ്. ആവശ്യമെന്ന് തോന്നുന്ന പക്ഷം അതാതു ആഡിറ്റർമാരുടെ സേവനം കൂടെ ഉപയോഗപ്പെടുത്താവുന്നതാണ്.

(6) സഹകരണ സംഘങ്ങളിൽ നിന്നും സ്ഥിതി വിവരകണക്കുകൾ ശേഖരിക്കുന്ന ജോലിയുടെ ചുമതല ബന്ധപ്പെട്ട അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) യൂണിറ്റ് ഇൻസ്പെക്ടർമാർക്ക് വീതിച്ചു നൽകേണ്ടതാണ്. ഇപ്രകാരം വീതിക്കുമ്പോൾ ഓരോ ഉദ്യോഗസ്ഥനും നിശ്ചിത തിയതിക്കുള്ളിൽ തന്നെ വിവരങ്ങൾ ശേഖരിക്കാൻ കഴിയുന്നത്ര സംഘങ്ങൾ മാത്രമേ നൽകിയിട്ടുള്ളു എന്ന് ഉറപ്പു വരുത്തേണ്ടതാണ്. ഓരോ ഉദ്യോഗസ്ഥനും നൽകിയിട്ടുള്ള സംഘങ്ങളുടെ പേ രുവിവരം സൂചിപ്പിക്കുന്ന നടപടി ഉത്തരവിന്റെ പകർപ്പ് ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർ(ജനറൽ)മാർക്കും ഈ ആഫീസിലേക്കും 30.9.2000 നകം എല്ലാ അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരും അയച്ചു തരേണ്ടതാണ്.

7) ശേഖരിക്കപ്പെട്ട വിവരങ്ങൾ സർക്കിൾ തലത്തിൽ തന്നെ ക്രോഡീകരണം നടത്തിയ ശേഷം മാത്രമേ രജിസ്ട്രാർ ആഫീസിലേക്ക് അയക്കുവാൻ പാടുള്ളു. ക്രോഡീകരണത്തിന് മുമ്പായി ആവശ്യമായ എല്ലാ വിവരങ്ങളും ഉൾപ്പെടുത്തിയിട്ടുണ്ടെന്നും, എല്ലാ കോളങ്ങളും ശരിയായ വിധത്തിൽ തന്നെയാണ് പൂരിപ്പിച്ചിട്ടുള്ളതെന്നും രേഖപ്പെടുത്തിയ വിവരങ്ങൾ പൂർണ്ണമായും ശരിയാണെന്നും, അതാതു അസിസ്റ്റന്റ് രജിസ്ട്രാർ(ജനറൽ) മാർ ഉറപ്പു വരുത്തേണ്ടതാണ്.

മുൻവർഷങ്ങളിൽ സർക്കിൾതല ക്രോഡീകരണം നടത്താതെ പല സർക്കിളുകളിൽ നിന്നും റിപ്പോർട്ടുകൾ അയച്ചുതന്നിരുന്നു. മേലിൽ അത് ആവർത്തിക്കാൻ പാടില്ല എന്ന് പ്രത്യേകം ഓർമ്മപ്പെടുത്തുന്നു.

സർക്കിൾ തലത്തിൽ ക്രോഡീകരിച്ച ടേബിളിന്റെ ഒരു കോപ്പി രജിസ്ട്രാർ ആഫീസിലേക്കും, ഒരു കോപ്പി അതാതു ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ)ക്കും അയച്ചു

കൊടുക്കേണ്ടതും, ഒരു കോപ്പി സർക്കിൾ ഓഫീസിൽ തന്നെ സൂക്ഷിക്കേണ്ടതുമാണ്. ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ)മാർ അതാതു ജില്ലകളുടെ ക്രോഡീകരണം നടത്തിയ ടേബിളുകൾ ജില്ലാതല ആഫീസിൽ തന്നെ സൂക്ഷിക്കേണ്ടതാണ്.

(8) ഓരോ സംഘത്തിന്റെയും അംഗ സംഖ്യയിൽ പട്ടികജാതി, പട്ടികവർഗ്ഗം വനിത എന്നിവ വേർതിരിച്ച് നൽകണം. എല്ലാ ടേബിളുകളിലും ഓരോ ഇനം സംഘങ്ങളുടെയും സർക്കാർ തലത്തിൽ ക്രോഡീകരിച്ച വിവരങ്ങൾ (ആകെ എഴുതുവാൻ പ്രത്യേകം ശ്രദ്ധിക്കണം.

(9) ടേബിൾ 15 തയ്യാറാക്കുമ്പോൾ ഹ്രസ്വകാല (ഷോർട്ട് ടേം), മദ്ധ്യകാല (മീഡിയം ടേം), ദീർഘകാല (ലോംഗ് ടേം) എന്നിവയുടെ വിവരങ്ങൾ പ്രത്യേകം പ്രത്യേകം ടേബിളുകളിൽ തന്നെ തയ്യാറാക്കേണ്ടതാണ്.

(10) ടേബിൾ 26,29,34,40 എന്നിവയിൽ സ്ഥിതി വിവര കണക്കുകൾ തയ്യാറാക്കി അയക്കുമ്പോൾ, ഓരോ ഇനം സംഘങ്ങളുടേയും വിവരങ്ങൾ പ്രത്യേകം പ്രത്യേകമായി തയ്യാറാക്കിയിട്ടുണ്ടെന്ന് ഉറപ്പു വരുത്തേണ്ടതാണ്.

(11) റിപ്പോർട്ടു ചെയ്യുന്ന കണക്കുകളുടെ കൃത്യത ഉറപ്പുവരുത്തേണ്ടതാണ്. മുൻവർഷത്തെ റിപ്പോർട്ടുമായി ഒത്തുനോക്കുമ്പോൾ അസാധാരണ വ്യത്യാസം ശ്രദ്ധയിൽ പ്പെട്ടാൽ അതി നുള്ള കാരണം അടിക്കുറിപ്പായി നൽകേണ്ടതാണ്.

12.) സമയപരിധിക്കുള്ളിൽ തന്നെ എല്ലാ റിപ്പോർട്ടുകളും തെറ്റുകൂടാതെ ബന്ധപ്പെട്ട അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) ഈ ആഫീസിൽ എത്തിച്ചിരിക്കേണ്ടതാണ്. മുൻ വർഷങ്ങളിൽ വരുത്തിയ കാലതാമസം ഇനിയും ആവർത്തിക്കാതിരിക്കാൻ പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതുമാണ്.

(13)അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ നിശ്ചിത സമയ പരിധിക്കുള്ളിൽ തന്നെ വിവരങ്ങൾ രജിസ്ട്രാർക്ക് നൽകിയിട്ടുണ്ടോ എന്ന് അതാതു ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ ഉറപ്പു വരുത്തേണ്ടതാണ്.

(14) വ്യക്തതയുള്ള സ്റ്റേറ്റുമെന്റുകൾ മാത്രമേ രജിസട്രാർക്ക് അയക്കുവാൻ പാടുള്ളു. യാതൊരു കാരണവശാലും കാർബൺ കോപ്പികൾ അയക്കുവാൻ പാടില്ല.

15. ടേബിൾ നമ്പർ 43 ലേക്ക് ആവശ്യമായ വിവരങ്ങൾ ശേഖരിച്ച് ക്രോഡീകരിച്ച് അയച്ച് തരേണ്ട ചുമതല അതാതു ജോയിന്റ് രജിസ്ട്രാർ (ആഡിറ്റ്) മാർക്കായിരിക്കും.

16. നമ്പർ സ്റ്റേറ്റുമെന്റും സംഘങ്ങളുടെ ലിസ്റ്റും.

ഓരോ സർക്കിളിലും 31.3.2000 ത്തിന് നിലവിലുള്ള സംഘങ്ങളുടെ പൂർണ്ണമായ പേര്, രജിസ്റ്റർനമ്പർ, തപാൽ മേൽവിലാസം, രജിസ്റ്റർ ചെയ്ത തീയതി എന്നിവ ഉൾപ്പെടുന്ന ലിസ്റ്റ് ഇനം തിരിച്ച് തയ്യാറാക്കിയതും നിശ്ചിത പ്രെഫോർമായിൽ തയ്യാറാക്കിയ നമ്പർ സ്റ്റേറ്റുമെന്റും രണ്ടും കോപ്പികൾ ഈ ആഫീസിൽ എത്തിക്കേണ്ടതാണ്. സംഘങ്ങളുടെ ലിസ്റ്റിൽ ഓരോ ഇനത്തിലും പ്രവർത്തിക്കുന്ന സംഘങ്ങളുടെ വിവരങ്ങൾ ആദ്യം നൽകിയശേഷം അതിനു തൊട്ടു താഴെ തന്നെ പ്രവർത്തന രഹിതമായ സംഘങ്ങളുടെയും, ലിക്യുഡേഷനിൽ തുടരുന്ന സംഘങ്ങളുടേയും വിവരങ്ങൾ ന ൽകേണ്ടതാണ്. പുതിയതായി രജിസ്റ്റർ ചെയ്ത സംഘങ്ങൾ ഉണ്ടെങ്കിൽ ആയതുകൂടെ വ്യക്തമാക്കേണ്ടതാണ്. സംഘങ്ങളുടെ ലിസ്റ്റും നമ്പർ സ്റ്റേറ്റുമെന്റും 5.10.2000 നു മുമ്പായി തന്നെ ഈ ആഫീസിൽ എത്തിച്ചിരിക്കേണ്ടതാണ്.

17.നമ്പർ സ്റ്റേറ്റുമെന്റിൽ പരാമർശിച്ചിട്ടുള്ള എല്ലാ സംഘങ്ങളുടേയും

വാർഷിക സ്ഥിതി വിവര കണക്കുകൾ അടങ്ങിയ എല്ലാ ടേബിളുകളും 30.10.2000 ത്തിനു മുമ്പായി അതാതു അസിസ്റ്റന്റ് രജിസ്ട്രാർ(ജനറൽ) മാർ രജിസ്ട്രാർ ആഫീസിൽ എത്തിക്കേണ്ടതാണ്. വായ്പാ സംഘങ്ങളുടെ വാർഷിക സ്ഥിതി വിവര കണക്കുകൾ (ടേബിൾ 10 മുതൽ 17 വരെ) ആദ്യം തന്നെ അയക്കേണ്ടതാണ്. പ്രസ്തുത ടേബിളുക ൾ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ, പട്ടികവർഗ്ഗ സഹകരണ സംഘങ്ങൾ, ഫാർമേഴ്സ് സഹകരണസംഘങ്ങൾ എന്നിവയുടെ വിവരങ്ങ ൾ പ്രത്യേകം പ്രത്യേകമായി തന്നെ തയ്യാറാക്കി തരേണ്ടതാണ്.

(18) ഓരോ ഇനം സംഘത്തിന്റെയും വാർഷിക സ്ഥിതി വിവര കണക്കുകൾ തയ്യാറാക്കി നൽകേണ്ട ടേബിളുകളുടെ ഒരു പട്ടിക ഇതോടൊന്നിച്ച് അയക്കുന്നു. ഈ പട്ടികയിൽ പരാമർശിച്ചിട്ടുള്ള ടേബിളുകൾ തന്നെയാണ് ഓരോ ഇനം സംഘത്തിനും ഉപയോഗിച്ചിട്ടുള്ളതെന്ന് ഉറപ്പ് വരുത്തിയശേഷമായിരിക്കണം അവ ഈ ആഫീസിലേക്ക് അയക്കേണ്ടത്.

(19) ടേബിളുകളിൽ ഉൾപ്പെടുന്ന കണക്കുകളുടെ കൃത്യത പരിശോധിക്കുകയും ചെക്ക് ലിസ്റ്റിലെ നിർദ്ദേശങ്ങൾ ഓരോ തരം സംഘങ്ങളുടേയും കാര്യത്തിൽ ശരിയാണെന്ന് ഉറപ്പ് വരുത്തുകയും ചെയ്യേണ്ടതാണ്.

സർക്കുലർ കൈപ്പറ്റിയ വിവരം അറിയിക്കേണ്ടതാണ്.

ധരംവീർ
സഹകരണ സംഘം രജിസ്ട്രാർ

നമ്പർ എസ്.റ്റി.എ.(1) 35495/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്, തിരുവനന്തപുരം, തീയതി 26/8/03

സർക്കുലർ നമ്പർ 49/03

വിഷയം : **സഹകരണ വകുപ്പ് – കേരളത്തിലെ സഹകരണ വകുപ്പിന്റെ കീഴിലുള്ള സഹകരണ സംഘങ്ങളിലെ 2002–2003 വർഷത്തെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകളുടെ ശേഖരണം – സംബന്ധിച്ച്**

2002.2003 വർഷത്തെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിച്ച് തയ്യാറാക്കി അയക്കുന്നതിലേക്ക് താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ നൽകുന്നു.

(1) 2002.2003 വർഷത്തെ സ്ഥിതി വിവരക്കണക്കുകളിൽ 2002 ഏപ്രിൽ മാസം 1.ാം തീയതി മുതൽ 2003 മാർച്ച് മാസം 31.ാം തീയതി വരെയുള്ള കാലയളവിലെ വിവരങ്ങൾ ആണ് ഉൾപ്പെടുത്തേണ്ടത്.

(2) സംസ്ഥാന സഹകരണബാങ്ക്, ജില്ലാ സഹകരണബാങ്കുകൾ, മറ്റ് അപെക്സ് സംഘങ്ങൾ എന്നിവയുടെ സ്ഥിതി വിവരക്കണക്കുകൾ ഈ ആഫീസിൽ നിന്നും നേരിട്ട് ശേഖരിക്കുന്നതാണ്.

(3) സഹകരണ വകുപ്പിന്റെ കിഴിൽ നിലവിലുള്ള സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്ക് ഉൾപ്പെടെ മറ്റെല്ലാ സഹകരണ സ്ഥാപനങ്ങളുടെയും (പ്രവർത്തിക്കുന്നതും, അല്ലാത്തതും) സ്ഥിതി വിവരക്കണക്കുകൾ സർക്കിൾ തലത്തിൽ തന്നെ ശേഖരിക്കേണ്ടതാണ്.

(4) മുൻ വർഷത്തിൽ ഉപയോഗിച്ച അതേ ഫാറങ്ങൾ തന്നെയാണ് 2002–2003 വർഷത്തേയ്ക്കും ഉപയോഗിക്കേണ്ടത്.സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിക്കുന്നതിലേയ്ക്കാ

വശ്യമായ ഫാറങ്ങൾ ബന്ധപ്പെട്ട സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ ഈ ആഫീസിൽ നിന്നും ശേഖരിച്ച് ബന്ധപ്പെട്ട സഹകരണസംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർക്കു കാല താമസം വരുത്താതെ വിതരണം ചെയ്യേണ്ടതാണ്.

(5) സംഘങ്ങളുടെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ സഹകരണസംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ)മാർ ചുമതലപ്പെടുത്തുന്ന യൂണിറ്റ് ഇൻസ്പെക്ടർമാർതന്നെ ശേഖരിക്കേണ്ടതാണ്.

(6) സഹകരണ സംഘങ്ങളിൽ നിന്നും സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിക്കുന്ന ജോലിയുടെ ചുമതല ബന്ധപ്പെട്ട സഹകരണസംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) യൂണിറ്റ് ഇൻസ്പെക്ടർമാർക്ക് വീതിച്ച് നൽകേണ്ടതും ഇപ്രകാരം വീതിക്കുമ്പോൾ ഓരോ ഉദ്യോഗസ്ഥനും നിശ്ചിത തീയതിക്കുള്ളിൽ തന്നെ വിവരങ്ങൾ ശേഖരിക്കുവാൻ കഴിയുന്നത്ര സംഘങ്ങൾ മാത്രമേ നൽകിയിട്ടുള്ളു എന്ന് ഉറപ്പുവരുത്തേണ്ടതുമാണ്. ഓരോ ഉദ്യോഗസ്ഥനും നൽകിയിട്ടുള്ള സംഘങ്ങളുടെ പേരു വിവരം സൂചിപ്പിക്കുന്ന നടപടി ഉത്തരവിന്റെ പകർപ്പ് ബന്ധപ്പെട്ട സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർക്കും, ഈ ഓഫീസിലേയ്ക്കും 30.9.2003 നകം എല്ലാ സഹകരണസംഘം രജിസ്ട്രാർ (ജനറൽ)മാരും അയച്ചു കൊടുക്കേണ്ടതാണ്.

(7) ശേഖരിക്കപ്പെട്ട വിവരങ്ങൾ താലൂക്ക് അസിസ്റ്റന്റ് രജിസ്ട്രാർ തലത്തിൽ തന്നെ ക്രോഡീകരണം നടത്തിയശേഷം മാത്രമേ സഹകരണസംഘം രജിസ്ട്രാർ ആഫിസിലേയ്ക്ക് അയയ്ക്കുവാൻ പാടുള്ളു. ക്രോഡീകരണത്തിന് മുമ്പായി 2002–2003 വർഷത്തെ നമ്പർ സ്റ്റേറ്റ്മെന്റിൽ ഉള്ള എല്ലാ സഹകരണസംഘങ്ങളുടെയും വിവരങ്ങൾ ഉൾപ്പെടുത്തിയിട്ടുണ്ടെന്നും എല്ലാ കോളങ്ങളും പൂരിപ്പിച്ചിട്ടുണ്ടെന്നും അവ ശരിയായ രീതിയിൽ തന്നെയാണെന്നും അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ ഉറപ്പ് വരുത്തേണ്ടതാണ്.

സർക്കിൾ തലത്തിൽ ക്രോഡീകരിച്ച ടേബിളിന്റെ ഒരു പകർപ്പ് സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസിലേയ്ക്കും ഒരു പകർപ്പ് അതാത് ജോയിന്റ് രജിസ്ട്രാർ ആഫീസിലേയ്ക്കും അയച്ചു കൊടുക്കേണ്ടതാണ്. ഒരു പകർപ്പ് അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) ആഫീസിൽതന്നെ സൂക്ഷിക്കേണ്ടതുമാണ്.

(8) ഓരോ സഹകരണ സംഘത്തിന്റെയും അംഗസംഖ്യയിൽ പട്ടികജാതി പട്ടിക വർഗ്ഗം വനിത എന്നിവ തരംതിരിച്ച് നൽകേണ്ടതാണ്.. എല്ലാ ടേബിളുകളും (ഓരോ ഇനം സഹകരണസംഘത്തിന്റെയും) സർക്കിൾ തലത്തിൽ ക്രോഡീകരിച്ച വിവരങ്ങൾ (ആകെ) എഴുതുവാൻ പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്.

(9) ടേബിൾ 15 തയ്യാറാക്കുമ്പോൾ ഹ്രസ്വകാല (ഷോർട്ട് ടേം) മധ്യകാല (മീഡിയം ടേം) ദീർഘകാല (ലോംഗ്ടേം) എന്നിവയുടെ വിവരങ്ങൾ പ്രത്യേകം (മൂന്നു വിഭാഗം) ടേബിളുകളിൽ തയ്യാറാക്കി അയയ്ക്കേണ്ടതാണ്.

(10) 26, 28, 29, 34,40 എന്നീ ടേബിളുകളിൽ സ്ഥിതി വിവരകണക്കുകൾ തയ്യാറാക്കി അയയ്ക്കുമ്പോൾ ഓരോ ഇനം സംഘങ്ങളുടെയും വിവരങ്ങൾ പ്രത്യേകം പ്രത്യേകമായി തയ്യാറാക്കിയിട്ടുണ്ടെന്ന് ഉറപ്പു വരുത്തേണ്ടതാണ്.

(11) റിപ്പോർട്ട് ചെയ്യുന്ന കണക്കുകളുടെ കൃത്യത ഉറപ്പു വരുത്തുവാൻ പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്. മുൻ വർഷത്തെ റിപ്പോർട്ടുമായി ഒത്തുനോക്കുമ്പോൾ അസാധാരണ വ്യത്യാസം ശ്രദ്ധയിൽപ്പെട്ടാൽ അതിനുള്ള കാരണം അടിക്കുറിപ്പായി നൽകേണ്ടതാണ്.

(12) വ്യക്തതയുള്ള സ്റ്റേറ്റുമെന്റുകൾ മാത്രമേ രജിസ്ട്രാർക്ക് അയയ്ക്കുവാൻ

പാടുള്ളു. വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ തയ്യാറാക്കുമ്പോൾ തുക ആയിരത്തിന് (1000) ശരിയാക്കി അയക്കുവാൻ പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്. യൂണിറ്റ് എല്ലാ ടേബിളുകളിലും വ്യക്തമായി എഴുതിയിരിക്കണം.

(13) ടേബിൾ 43 ലേയ്ക്ക് ആവശ്യമായ വിവരങ്ങൾ ബന്ധപ്പെട്ട സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ (ആഡിറ്റ്) തയ്യാറാക്കി അയച്ചുതരേണ്ടതാണ്.

(14) വായ്പാ സംഘങ്ങളുടെ വാർഷിക വിവരക്കണക്കുകൾ (ടേബിൾ 10 മുതൽ 17 വരെ) തയ്യാറാക്കുമ്പോൾ പ്രാഥമിക കാർഷിക വായ്പാ സംഘങ്ങൾ, ഫാർമേഴ്സ് സഹകരണ സംഘങ്ങൾ, പട്ടിക ജാതി സഹകരണസംഘങ്ങൾ, പട്ടിക വർഗ്ഗ സഹകരണ സംഘങ്ങൾ എന്നിവയുടെ വിവരങ്ങൾ പ്രത്യേകം പ്രത്യേകം തന്നെ തയ്യാറാക്കേണ്ടതാണ്.

(15) ടേബിളുകളിൽ ഉൾപ്പെടുന്ന കണക്കുകളുടെ കൃത്യത പരിശോധിക്കുകയും ചെക്ക് ലിസ്റ്റിലെ നിർദ്ദേശങ്ങൾ ഓരോതരം സഹകരണ സംഘങ്ങളുടെയും കാര്യത്തിൽ ശരിയാണെന്ന് ഉറപ്പുവരുത്തുകയും ചെയ്യേണ്ടതാണ്.

(16) ഓരോ ഇനം സഹകരണ സംഘങ്ങളുടെയും വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ തയ്യാറാക്കി നൽകേണ്ട ടേബിളുകളുടെ ഒരു പട്ടിക ഇതോടൊന്നിച്ച് അയയ്ക്കുന്നു. ഈ പട്ടികയിൽ പരാമർശിച്ചിട്ടുള്ള ടേബിളുകൾ തന്നെയാണ് ഓരോ ഇനം സംഘത്തിനും ഉപയോഗിച്ചിട്ടുള്ളതെന്ന് ഉറപ്പു വരുത്തിയ ശേഷമായിരിക്കണം അവ ഈ ആഫീസിലേയ്ക്ക് അയക്കേണ്ടത്.

(17) നമ്പർ സ്റ്റേറ്റുമെന്റിൽ പരാമർശിച്ചിട്ടുള്ള എല്ലാ സഹകരണ സംഘങ്ങളുടെയും വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ അടങ്ങിയ എല്ലാ ടേബിളുകളും 31/10/2003 ന് മുമ്പായി അതാത് അസിസ്റ്റന്റ് രജിസ്ട്രാർ ജ്രനറൽ)മാർ രജിസ്ട്രാർ ആഫീസിൽ എത്തിക്കേണ്ടതാണ്. മുൻ വർഷങ്ങളിൽ വരുത്തിയ കാലതാമസം ഇനിയും ആവർത്തിക്കാതിരിക്കാൻ പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്.

(18) നമ്പർ സ്റ്റേറ്റുമെന്റും സംഘങ്ങളുടെ ലിസ്റ്റും

ഓരോ സർക്കിളിലും 31/3/2003 ന് നിലവിലുള്ള സഹകരണ സംഘങ്ങളുടെ പൂർണ്ണമായ പേര്, രജിസ്റ്റർ നമ്പർ, തപാൽ മേൽവിലാസം, രജിസ്റ്റർ ചെയ്ത തീയതി, എന്നിവ ഉൾപ്പെടുന്ന ലിസ്റ്റ് ഇനം തിരിച്ച് തയ്യാറാക്കിയതും നിശ്ചിത പ്രൊഫോർമയിൽ തയ്യാറാക്കിയ നമ്പർ സ്റ്റേറ്റ്മെന്റും രണ്ടു കോപ്പികൾ ഈ ആഫീസിൽ എത്തിക്കേണ്ടതാണ്. സംഘങ്ങളുടെ ലിസ്റ്റിൽ ഓരോ ഇനത്തിലും പ്രവർത്തിക്കുന്ന സംഘങ്ങളുടെ വിവരങ്ങൾ ആദ്യം നൽകിയ ശേഷം അതിനു തൊട്ടു താഴെ തന്നെ പ്രവർത്തനരഹിതമായ സംഘങ്ങളുടെയും ലിക്വിഡേഷനിൽ തുടരുന്ന സംഘങ്ങളുടെയും പുതിയതായി രജിസ്റ്റർ ചെയ്ത സംഘങ്ങൾ ഉണ്ടെങ്കിൽ അവയുടെയും വിവരങ്ങൾ നൽകേണ്ടതാണ്.

സംഘങ്ങളുടെ ലിസ്റ്റും നമ്പർ സ്റ്റേറ്റുമെന്റും 30/9/2003 ന് മുമ്പായി തന്നെ ഈ ആഫീസിൽ എത്തിച്ചിരിക്കേണ്ടതാണ്.

(19) മേൽ പ്രകാരമുള്ള സമയപരിധിയ്ക്കുത്തന്നെ സ്ഥിതി വിവരങ്ങൾ നൽകുന്നുണ്ടോ എന്ന് ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർമാർ ഉറപ്പുവരുത്തേണ്ടതാണ്.

സർക്കുലർ കൈപ്പറ്റിയ വിവരം അറിയിക്കേണ്ടതാണ്.

കെ.കേശവൻ

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ എസ്. റ്റി.എ. (1) 19512/2004 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 31–05–2004

സർക്കുലർ നമ്പർ 20/04

വിഷയം : **സഹകരണ വകുപ്പ് – കേരളത്തിലെ സഹകരണ വകുപ്പിന്റെ കീഴിലുള്ള സഹകരണ സംഘങ്ങളിലെ 2003 – 2004 വർഷത്തെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകളുടെ ശേഖരണം – സംബന്ധിച്ച്**

2003 – 2004 വർഷത്തെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിച്ച് തയ്യാറാക്കി അയയ്ക്കുന്നതിലേക്ക് ആവശ്യമായ നിർദ്ദേശങ്ങൾ ചുവടെ ചേർക്കുന്നു.

(1). 2003–2004 വർഷത്തെ സ്ഥിതി വിവരക്കണക്കുകളിൽ 2003 ഏപ്രിൽ മാസം 1–ാം തീയതി മുതൽ മാർച്ച് മാസം 31–ാം തീയതി വരെയുള്ള കാലയളവിലെ വിവരങ്ങൾ ആണ് ഉൾപ്പെടുത്തേണ്ടത്.

(2). സംസ്ഥാന സഹകരണ ബാങ്ക്, ജില്ല സഹകരണ ബാങ്കുകൾ, മറ്റ് അപ്പക്സ് സംഘങ്ങൾ എന്നിവയുടെ സ്ഥിതി വിവരക്കണക്കുകൾ ഈ ആഫീസിൽ നിന്നും നേരിട്ട് ശേഖരിക്കുന്നതാണ്.

(3). സഹകരണ വകുപ്പിന്റെ കീഴിൽ നിലവിലുള്ള സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്ക് ഉൾപ്പടെ മറ്റെല്ലാ സ്ഥാപനങ്ങളുടേയും (പ്രവർത്തിക്കുന്നതും അല്ലാത്തതും) സ്ഥിതി വിവരക്കണക്കുകൾ സർക്കിൾ തലത്തിൽ തന്നെ ശേഖരിക്കേണ്ടതാണ്.

(4). മുൻ വർഷങ്ങളിൽ ഉപയോഗിച്ച അതേ പാഠങ്ങൾ തന്നെയാണ് 2003–2004 വർഷത്തേക്കും ഉപയോഗിക്കേണ്ടത്.സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിക്കുന്നതിലേക്ക് ആവശ്യമായ ഫാറങ്ങൾ ബന്ധപ്പെട്ട സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ ഈ ആഫീസിൽ നിന്നും ശേഖരിച്ച് ബന്ധപ്പെട്ട സഹകരണസംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർക്കു കാലതാമസം വരുത്താതെ വിതരണം ചെയ്യേണ്ടതാണ്.

(5). സഹകരണസംഘങ്ങളുടെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ സഹകരണ സംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) ചുമതലപ്പെടുത്തുന്ന യൂണിറ്റ് ഇൻസ്പെക്ടർമാർ ശേഖരിക്കേണ്ടതാണ്.

(6). സഹകരണ സംഘങ്ങളിൽ നിന്നും സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിക്കുന്ന ജോലിയുടെയും ചുമതല ബന്ധപ്പെട്ട സഹകരണസംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) യൂണിറ്റ് ഇൻസ്പെക്ടർമാർക്കു വീതിച്ചു നൽകേണ്ടതും ഇപ്രകാരം വീതിക്കുമ്പോൾ ഓരോ ഉദ്യോഗസ്ഥനും നിശ്ചിത തീയതിക്കുള്ളിൽ തന്നെ വിവരങ്ങൾ ശേഖരിക്കുവാൻ കഴിയുന്നത്ര സംഘങ്ങൾ മാത്രമേ നൽകിയിട്ടുള്ളൂ എന്ന് ഉറപ്പു വരുത്തേണ്ടതുമാണ്. ഓരോ ഉദ്യോഗസ്ഥനും നൽകിയിട്ടുള്ള സംഘങ്ങളുടെ പേരു വിവരം സൂചിപ്പിക്കുന്ന നടപടി ഉത്തരവിന്റെ പകർപ്പ് ബന്ധപ്പെട്ട സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർക്കും, ഈ ആഫീസിലേക്കും 15–07–2004 നകം എല്ലാ സഹകരണസംഘം അസിസിറ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരും അയച്ചുകൊടുക്കേണ്ടതാണ്.

(7). ശേഖരിക്കപ്പെട്ട വിവരങ്ങൾ താലൂക്ക് അസിസ്റ്റന്റ് രജിസ്ട്രാർ തലത്തിൽ തന്നെ ക്രോഡീകരണം നടത്തിയ ശേഷം മാത്രമേ സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസിലേക്കു അയക്കുവാൻ പാടുള്ളൂ. ക്രോഡീകരണത്തിന് മുമ്പായി 2003–2004 വർഷത്തെ നമ്പർ സ്റ്റേറ്റ്മെന്റിൽ ഉള്ള എല്ലാ സഹകരണ സംഘങ്ങളുടെയും വിവരങ്ങൾ ഉൾപ്പെടുത്തിയിട്ടുണ്ടെന്നും എല്ലാ കോളങ്ങളും പൂരിപ്പിച്ചിട്ടുണ്ടെന്നും അവ ശരി

യായ രീതിയിൽ തന്നെയാണെന്നും അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ ഉറപ്പു വരുത്തേണ്ടതാണ്.

(8). ഓരോ സഹകരണ സംഘത്തിന്റെയും അംഗസംഖ്യയിൽ പട്ടികജാതി, പട്ടികവർഗ്ഗം, വനിത എന്നിവ തരം തിരിച്ചു നൽകേണ്ടതാണ്. എല്ലാ ടേബിളുകളും (ഓരോ ഇനം സഹകരണ സംഘത്തിന്റെയും) സർക്കിൾ തലത്തിൽ ക്രോഡീകരിച്ച് വിവരങ്ങൾ (ആകെ) എഴുതുവാൻ പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്.

(9). ടേബിൾ 15 തയ്യാറാക്കുമ്പോൾ ഹ്രസ്വകാല (ഷോർട്ട് ടേം) മധ്യകാല (മീഡിയം ടേം) ദീർഘകാല (ലോങ്ങ് ടേം) എന്നിവയുടെ വിവരങ്ങൾ പ്രത്യേകം (മൂന്നു വിഭാഗം) ടേബിളുകളിൽ തയ്യാറാക്കി അയക്കേണ്ടതാണ്.

(10). 26, 28, 29, 34, 40 എന്നീ ടേബിളുകളിൽ സ്ഥിതി വിവരക്കണക്കുകൾ തയ്യാറാക്കി അയക്കുമ്പോൾ ഓരോ ഇനം സംഘങ്ങളുടെയും വിവരങ്ങൾ പ്രത്യേകം തയ്യാറാക്കിയിട്ടുണ്ടെന്ന് ഉറപ്പു വരുത്തേണ്ടതാണ്.

(11). റിപ്പോർട്ട് ചെയ്യുന്ന കണക്കുകളുടെ കൃത്യത ഉറപ്പുവരുത്തേണ്ടതാണ്. മുൻ വർഷത്തെ റിപ്പോർട്ടുമായി ഒത്തു നോക്കുമ്പോൾ അസാധാരണ വ്യത്യാസം ശ്രദ്ധയിൽപ്പെട്ടാൽ അതിനുള്ള കാരണം അടിക്കുറിപ്പായി നൽകേണ്ടതാണ്.

(12). വ്യക്തതയുള്ള സ്റ്റേറ്റ്മെന്റുകൾ മാത്രമേ രജിസ്ട്രാർക്ക് അയക്കുവാൻ പാടുള്ളൂ. വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ തയ്യാറാക്കുമ്പോൾ തുക ആയിരത്തിന് (1000) ശരിയാക്കി അയക്കുവാൻ പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്. യൂണിറ്റ് എല്ലാ ടേബിളുകളിലും വ്യക്തമായി എഴുതിയിരിക്കണം.

(13). ടേബിൾ 43 – ലേക്കുള്ള വിവരങ്ങൾ ബന്ധപ്പെട്ട സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർ (ആഡിറ്റ്) തയ്യാറാക്കി അയച്ചുതരേണ്ടതാണ്.

(14). വായ്പാ സംഘങ്ങളുടെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ (ടേബിൾ/ 10 മുതൽ 17 വരെ) തയ്യാറാക്കുമ്പോൾ പ്രാഥമിക കാർഷിക വായ്പാ സംഘങ്ങൾ, ഫാർമേഴ്സ് സഹകരണ സംഘങ്ങൾ, പട്ടികജാതി സഹകരണ സംഘങ്ങൾ, പട്ടിക വർഗ്ഗ സഹകരണ സംഘങ്ങൾ എന്നിവയുടെ വിവരങ്ങൾ പ്രത്യേകം തന്നെ തയ്യാറാക്കേണ്ടതാണ്.

(15). സ്കൂൾ സഹകരണ സംഘങ്ങളുടെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ സർക്കിൾ ആകെയുള്ളതിന്റെ 10% സംഘങ്ങളിൽ നിന്നു മാത്രമേ ശേഖരിക്കേണ്ടതുള്ളൂ. വിവരങ്ങൾ ശേഖരിക്കേണ്ട സ്കൂൾ സഹകരണ സംഘങ്ങളുടെ പട്ടിക ഈ ആഫീസിൽനിന്നും അയച്ചു തരേണ്ടതാണ്. എന്നാൽ സർക്കിളിലുള്ള എല്ലാ കോളേജു സഹകരണ സംഘങ്ങളുടെയും വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിച്ചു ടേബിൾ 34 – ൽ അയച്ചുതരേണ്ടതാണ്.

(16). ടേബിളുകളിൽ ഉൾപ്പെടുന്ന കണക്കുകളുടെ കൃത്യത പരിശോധിക്കുകയും ചെക്കു ലിസ്റ്റിലെ നിർദ്ദേശങ്ങൾ ഓരോ തരം സഹകരണ സംഘങ്ങളുടെയും കാര്യത്തിൽ ശരിയാണെന്ന് ഉറപ്പു വരുത്തുകയും ചെയ്യേണ്ടതാണ്.

(17). ഓരോ ഇനം സഹകരണ സംഘങ്ങളുടെയും വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ തയ്യാറാക്കി നൽകേണ്ട ടേബിളുകളുടെ ഒരു പട്ടിക ഇതോടൊപ്പം അയയ്ക്കുന്നു. ഈ പട്ടികയിൽ പരാമർശിച്ചിട്ടുള്ള ടേബിളുകൾ തന്നെയാണ് ഓരോ ഇനം സംഘത്തിനും ഉപയോഗിച്ചിട്ടുള്ളതെന്ന് ഉറപ്പു വരുത്തിയ ശേഷമായിരിക്കണം അവ ഈ ആഫീസിലേക്കു അയക്കേണ്ടത്.

(18). നമ്പർ സ്റ്റേറ്റ്മെന്റിൽ പരാമർശിച്ചിട്ടുള്ള എല്ലാ സഹകരണസംഘങ്ങളുടെയും വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ അടങ്ങിയ എല്ലാ ടേബിളുകളും 31–08–2004 ന് മുമ്പായി അതാത് അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ രജിസ്ട്രാർ ആഫീസിൽ എത്തിക്കേണ്ടതാണ്. മുൻ വർഷങ്ങളിൽ വരുത്തിയ കാലതാമസം ഇനിയും ആവർത്തിക്കാതിരിക്കാൻ ശ്രദ്ധിക്കേണ്ടതാണ്.

(19). നമ്പർ സ്റ്റേറ്റ്മെന്റും സംഘങ്ങളുടെ ലിസ്റ്റും.

ഓരോ സർക്കിളിലും 31–03–2004 – ന് നിലവിലുള്ള സഹകരണ സംഘങ്ങളുടെ പൂർണ്ണമായ പേര്, രജിസ്റ്റർ നമ്പർ, തപാൽ മേൽവിലാസം, രജസിറ്റർ ചെയ്ത തീയതി എന്നിവ ഉൾപ്പെടുന്ന ലിസ്റ്റ് ഇനം തിരിച്ചു തയ്യാറാക്കിയതും നിശ്ചിത പ്രോഫോർമയിൽ തയ്യാറാക്കിയ നമ്പർ സ്റ്റേറ്റ്മെന്റും ഈ ആഫീസിൽ എത്തിക്കേണ്ടതാണ്. സംഘങ്ങളുടെ ലിസ്റ്റിൽ ഓരോ ഇനത്തിനും പ്രവർത്തിക്കുന്ന സംഘങ്ങളുടെ വിവരങ്ങൾ ആദ്യം നൽകിയതിനു ശേഷം അതിനു തൊട്ടു താഴെ തന്നെ പ്രവർത്തന രഹിതമായ സംഘങ്ങളുടെയും, ലിക്വിഡേഷനിൽ തുടരുന്ന സംഘങ്ങളുടെയും പുതിയതായി രജിസ്റ്റർ ചെയ്ത സംഘങ്ങൾ ഉണ്ടെങ്കിൽ അവയുടെയും വിവരങ്ങൾ നൽകേണ്ടതാണ്. സംഘങ്ങളുടെ നമ്പർ സ്റ്റേറ്റുമെന്റും ലിസ്റ്റും 20–07–04 നു മുമ്പായി തന്നെ ഈ ആഫീസിൽ എത്തിക്കേണ്ടതാണ്.

(20). മേൽപ്രകാരമുള്ള സമയപരിധിക്കു തന്നെ സ്ഥിതി വിവരക്കണക്കുകൾ നൽകുന്നുണ്ടോയെന്ന് ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ)മാർ ഉറപ്പു വരുത്തേണ്ടതാണ്. സർക്കുലർ കൈപ്പറ്റിയ വിവരം അറിയിക്കേണ്ടതാണ്.

കെ. കേശവൻ

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ : എസ്.റ്റി.എ. (1) 16262/2005. സഹകരണസംഘം രജിസ്ട്രാറാഫീസ്,
തിരുവനന്തപുരം, തീയതി 31–05–2005

സർക്കുലർ നമ്പർ 17/2005

വിഷയം : സഹകരണ വകുപ്പ് – സഹകരണ വകുപ്പിന്റെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സംഘങ്ങളിലെ 2004–2005 വർഷത്തെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകളുടെ ശേഖരണം – നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നത് – സംബന്ധിച്ച്.

2004–2005 വർഷത്തെ വാർഷിക സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിക്കുന്നതിനായി ചുവടെ പരാമർശിക്കുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. **നമ്പർ സ്റ്റേറ്റുമെന്റും സംഘങ്ങളുടെ പട്ടികയും**

ഓരോ സർക്കിളിലും 31–03–2005 ന് നിലവിലുള്ള സഹകരണ സംഘങ്ങളുടെ പൂർണ്ണമായ മേൽവിലാസം, രജിസ്റ്റർ ചെയ്ത തീയതി, ഫോൺ നമ്പർ, ചട്ടം 15 പ്രകാരമുള്ള തരം തിരിവ് എന്നീ വിവരങ്ങൾ ഉൾപ്പെട്ട ലിസ്റ്റ് ഇതോടൊപ്പം ഉള്ളടക്കം ചെയ്യുന്ന പ്രോഫോർമ (അനുബന്ധം – 1) യിൽ സമർപ്പിക്കേണ്ടതാണ്. മേൽ വിവരങ്ങൾക്കു പുറമെ എന്തെങ്കിലും അധികമായി രേഖപ്പെടുത്തുന്നുണ്ടെങ്കിൽ ആയത് റിമാർക്സ് കോളത്തിൽ ഉൾപ്പെടുത്തുകയും ചെയ്യേണ്ടതാണ്. അപ്രകാരം തയ്യാറാക്കിയ നമ്പർ സ്റ്റേറ്റുമെന്റ് 20–07–2005 ന് മുമ്പായി ഈ ആഫീസിൽ സമർപ്പിക്കേണ്ടതാണ്.

സംഘങ്ങളുടെ പേര് അടങ്ങിയ ലിസ്റ്റിൽ, ഓരോ സംഘത്തിന്റെയും നേരെ ഇപ്പോൾ പ്രവർത്തിക്കുന്നതാണോ, പ്രവർത്തന രഹിതമാണോ, ലിക്വിഡേഷനിൽ തുടരുന്നവയാണോ, തുടങ്ങിയ എല്ലാ വിവരങ്ങളും ഉൾക്കൊള്ളിക്കേണ്ടതും, ചട്ടം 15 പ്രകാരമുള്ള തരം തിരിവ്, തുടങ്ങി ഓരോ സംഘത്തെ സംബന്ധിച്ചുള്ള വിവരങ്ങൾ അതാത് കോളത്തിൽ രേഖപ്പെടുത്തേണ്ടതും, യാതൊരു കാരണവശ്ശാലും ഏതെങ്കിലും സംഘത്തിെ സംബന്ധിച്ച് കോളത്തിൽ പരാമർശിച്ചിരിക്കുന്ന കാര്യങ്ങൾ ബാധകമല്ലെങ്കിൽ 'ബാധകമല്ല' എന്നു രേഖപ്പെടുത്തേണ്ടതും അധികവിവരങ്ങൾ ഏതെങ്കിലും രേഖപ്പെടുത്താനുണ്ടെങ്കിൽ ആയത് 'റിമാർക്സ്' കോളത്തിൽ ഉൾപ്പെടുത്തുകയും ചെയ്യേണ്ടതാണ്.

ഈ വർഷം ലിക്വിഡേറ്റ് ചെയ്തവരുടെയും രജിസ്റ്റർ ചെയ്തവരുടെയും പേരു വിവരം, തരം തിരിവ്, വിലാസം, രജിസ്റ്റർ ചെയ്ത തീയ.തി എന്നിവ അടങ്ങിയ ലിസ്റ്റ് പ്രത്യേകം നൽകേണ്ടതുമാണ്.

2. സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിക്കുന്ന ചുമതല

സഹകരണ സംഘങ്ങളിൽ നിന്നും സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിക്കുന്ന ജോലിയുടെ ചുമതല സഹകരണ സംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) ബന്ധപ്പെട്ട യൂണിറ്റി ഇൻസ്പെക്ടർ, എ ആന്റ് ഇ ഇൻസ്പെക്ടർ, സ്പെഷ്യൽ സെയിൽസ് ആഫീസർമാർ എന്നിവർക്ക് വീതിച്ചു നൽകേണ്ടതാണ്. കൺകറന്റ് ആഡിറ്റർമാർ ഉള്ള സംഘങ്ങളിൽ ബന്ധപ്പെട്ട ആഡിറ്റ് അസിസ്റ്റന്റ് രജിസ്ട്രാറുമായി ആലോചിച്ച്, സ്ഥിതി വിവരക്കണക്കുകൾ ശേഖരിക്കുന്ന ജോലിയുടെ ചുമതല ടി കൺകറന്റ് ആഡിറ്റർക്ക് നൽകേണ്ടതാണ്. ഓരോ ഉദ്യോഗസ്ഥനും നൽകിയിട്ടുള്ള സംഘങ്ങളുടെ പേരു വിവരം സൂചിപ്പിക്കുന്ന നടപടി ഉത്തരവിന്റെ പകർപ്പ് ഈ ആഫീസിലേക്കും ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ ആന്റ് ആഡിറ്റ്) മാർക്കും 15-07-2005 നു മുമ്പായി അയച്ചു തരേണ്ടതാണ്.

(3). ഓരോ സംഘത്തിന്റെയും വിവരങ്ങൾ ശേഖരിക്കുന്ന ഉദ്യോഗസ്ഥൻ വിവരങ്ങൾ അടങ്ങിയ ടേബിളിൽ പേരും ഉദ്യോഗപ്പേരും ഒപ്പും രേഖപ്പെടുത്തേണ്ടതാണ്. ശേഖരിച്ച വിവരങ്ങൾ അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) തലത്തിൽ ക്രോഡീകരണം നടത്തേണ്ടതാണ്. 2004-2005 വർഷത്തെ നമ്പർ സ്റ്റേറ്റ്മെന്റിലുള്ള എല്ലാ സംഘങ്ങളുടെയും വിവരങ്ങൾ ബന്ധപ്പെട്ട ടേബിളുകളിൽ തന്നെ ഉൾപ്പെടുത്തിയിട്ടുണ്ടെന്നും ഇതോടൊപ്പം നൽകിയിട്ടുള്ള ചെക്ക്ലിസ്റ്റിന്റെ നിർദ്ദേശങ്ങൾ അനുസരിച്ച് കോളങ്ങൾ ശരിയായ രീതിയിൽ തന്നെ പൂരിപ്പിച്ചിട്ടുണ്ടെന്നും അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽമാർ കർശനമായും ഉറപ്പു വരുത്തേണ്ടതാണ്. ടേബിളുകളിൽ അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) പരിശോധിച്ച് ഒപ്പ്, രേഖപ്പെടുത്തി, ബന്ധപ്പെട്ട സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ അയച്ചുകൊടുക്കേണ്ടതുമാണ്.

(4). ഓരോ സർക്കിളിലെയും ആകെയുള്ള 10% സംഘങ്ങളുടെ വിവരങ്ങൾ ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) ആഫീസിലെ ഡെപ്യൂട്ടി രജിസ്ട്രാർ (ഭരണം) പരിശോധിക്കുകയും സംഘങ്ങളുടെ വിവരങ്ങൾ ശരിയായ രീതിയിൽ തന്നെയാണ് രേഖപ്പെടുത്തിയിട്ടുള്ളതെന്ന് സാക്ഷ്യപ്പെടുത്തുകയും ചെയ്തതിന് ശേഷം ജോയിന്റ് രജിസ്ട്രാറുടെ മേലൊപ്പ് സഹിതം രജിസ്ട്രാർ ആഫീസിലേക്ക് അയക്കേണ്ടതുമാണ്.

(5). ഓരോ ഇനം സഹകരണ സംഘങ്ങളുടെയും വാർഷിക സ്ഥിതി വിവര

ക്കണക്കുകൾ തയ്യാറാക്കി നൽകേണ്ട ടേബിളുകളുടെയും പട്ടികയും അവ സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസിൽ എത്തിക്കേണ്ട അവസാന തീയതിയും ഇതോടൊപ്പം അയയ്ക്കുന്നു. മേൽ പ്രകാരമുള്ള സമയപരിധിയ്ക്കകത്ത് തന്നെ സ്ഥിതി വിവരക്കണക്കുകൾ നൽകുന്നു എന്നു ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ ഉറപ്പു വരുത്തേണ്ടതാണ്.

(6). സ്ഥിതി വിവരക്കണക്കുകളുടെ ശേഖരണവുമായി ബന്ധപ്പെട്ട കാര്യങ്ങളുടെ നോഡൽ ആഫീസർ, ജോയിന്റ് രജിസ്ട്രാർ ആഫീസിലെ ഡെപ്യൂട്ടി രജിസ്ട്രാർ (ഭരണം) ആയിരിക്കും.

(7). ടേബിൾ 43 ലേയ്ക്കുള്ള വിവരങ്ങൾ ബന്ധപ്പെട്ട സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ (ആഡിറ്റ്) മാർ തയ്യാറാക്കി 30–08–2005 ന് മുമ്പായി സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസിലേക്ക് അയച്ചുതരേണ്ടതാണ്.

(8). ടേബിളുകളിലെ വിവരങ്ങൾ ശേഖരിക്കുന്നതിന് മുൻ വർഷം നൽകിയ സർക്കുലറിലെ മറ്റ് നിർദ്ദേശങ്ങൾ അതേ പടി പാലിക്കേണ്ടതാണ്.

കെ. കേശവൻ

സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

LIST OF STATISTICAL STATEMENTS TO BE FURNISHED

Table No.	Details
9,9A,9B	**Primary Co-operative Agricultural and Rural Development Banks**
10-17	**Primary Agricultural Credit Societies (PACS, FSS, RURAL BANK, SC and ST)**
10	Number, Membership and coverage
11	Liabilities, Assets and Coverage
12	
12A	Classification of Loans and Advances issued and outstanding by purpose
12B	
13	Classification of overdues by period
14	Cropwise classification of short term advances made of Seasonal agricltural operations
15 ST,MT,LT	ST Classification of loans issued, recovered, 15 MT outstanding and overdue. According to size 15LT of ownership holding (separate tables must be used for short term, Medium term and Long term.
16	Classification of Loans and advances issued to members of Scheduled Castes and Scheduled Tribes by purpose.
17	Financed by commercial Banks including Regional Rural Banks.
19-21	**Primary Co-operative Urban Banks and Employees Co-operative Society (Coming Under B.R. Act)**
19	Number, Membership, Liabilities, Assets and operations
20, 20A	Classification of Loans issued and outstanding by purpose
21	Classification of overdues by period

22-25	**Primary Non-agricultural Credit Societies (not under B.R. Act), Urban Banks, ECS, Others, Agricultural Improvement Societies**
22	Number, Membership, Liabilities and Assets
23	Operations
24	Classification of Loans issued, outstanding by purpose
24A	Primary Non Agricultural Credit Socities
25	Classification of overdues by period
26-40	**Non-Credit Societies**
26	Marketing Societies (General and Special)
27	Processing Societies
28	1. Poultry 2. other Livestock societies
29	Farming Societies (Collective and Joint)
32	Other Industrial Societies
34	Consumer Societies (Wholesale and Primary Consumer, School Colleges and Central Co-operative Stores)
35	Distribution of Consumer goods by Co-operative Societies in rural areas
36	Housing Societies
37	Co-operative Industrial Estate Societies
38	Labour Contract and Construction Societies
39	Forest Labourer's Societies
40	**Other Non-Credit Societies**
	Better Farming, Irrigation, Land Colonisation, Rubber Plantation, Rubber Karshaka, Agricultural Others, Transport, Vanita, Rick-shaw Pullers, Autorikshaw, Lime Shell, Lime Burners, Washermen, Hospital and Dispensaries, Litarary Writers, Printing, Taxi Drivers, Chethu Thozhilali, Canteen, Social Welfare, Educational, Tailors, Non-Agricultural Others
43	Audit and Audit Classification of Societies
44	Societies under Liquidation
45	Co-operative Unions and Supervisory Institutions
46A	Administrative staff Co-operative Department
46B	Employment in Co-operative Societies
47	Arbitration and Execution cases for recovery of Loans and Advances
48	Embesslement cases
49	Suspension of Committees of Management of Societies
50	Supersession
51	Data Relating to Income and Expenditure of Co-operative Societies

For Registrar of Co-operative Societies

വാർഷിക സ്ഥിതി വിവര കണക്കുകൾ

ക്രമ നമ്പർ	ഇനം	വിവരങ്ങൾ ശേഖരിക്കേണ്ട ടേബിളിന്റെ നമ്പർ	സഹകരണ സംഘം രജിസ്ട്രാർ ഓഫീസിൽ എത്തിക്കേണ്ട അവസാന തീയതി
01.	പ്രാഥമിക കാർഷിക വായ്പാ സംഘങ്ങൾ	10 മുതൽ 17 വരെ	31.8.2005
02.	പട്ടികജാതി സഹകരണ സംഘങ്ങൾ	10 മുതൽ 17 വരെ	31.8.2005
03.	പട്ടികവർഗ്ഗ സഹകരണ സംഘങ്ങൾ	10 മുതൽ 17 വരെ	31.8.2005
04.	ഫാർമേഴ്സ് സർവീസ് സഹകരണ സംഘങ്ങൾ	10 മുതൽ 17 വരെ	31.8.2005
05.	റൂറൽ സഹകരണ സംഘങ്ങൾ	22 മുതൽ 25 വരെ	15.9.2005
06.	പ്രാഥമിക കാർഷിക ഗ്രാമവികസന ബാങ്ക്	9, 9ഏ, 9ബി	15.9.2005
07.	അർബൺ സഹകരണ ബാങ്ക് (ബി.ആർ ആക്ട്)	19 മുതൽ 21 വരെ	15.9.2005
08.	എംപ്ലോയീസ് ക്രെഡിറ്റ് സഹകരണ സംഘങ്ങൾ (ബി.ആർ ആക്ട്)	19 മുതൽ 21 വരെ	15.9.2005
09.	അർബൺ സഹകരണ ബാങ്ക് (നോൺ ബി.ആർ ആക്ട്)	22 മുതൽ 25 വരെ	15.9.2005
10.	എംപ്ലോയീസ് ക്രെഡിറ്റ് സഹകരണ സംഘങ്ങൾ (നോൺ ബി.ആർ ആക്ട്)	22 മുതൽ 25 വരെ	15.9.2005
11.	അഗ്രികൾച്ചറൽ ഇംപ്രൂവ്മെന്റ് സംഘങ്ങൾ	22 മുതൽ 25 വരെ	15.9.2005
12.	മറ്റ് പ്രാഥമിക നോൺ അഗ്രികൾച്ചറൽ ക്രെഡിറ്റ് സംഘങ്ങൾ	22 മുതൽ 25 വരെ	15.9.2005
13.	റൂറൽ സഹകരണ സംഘങ്ങൾ	22 മുതൽ 25 വരെ	15.9.2005
14.	മാർക്കറ്റിംഗ് സഹകരണ സംഘങ്ങൾ	26	30.9.2005
15.	പ്രോസസിംഗ് സഹകരണ സംഘങ്ങൾ	27	30.9.2005
16.	പോൾട്രി സഹകരണ സംഘങ്ങൾ	28	30.9.2005
17.	മറ്റ് ലൈവ് സ്റ്റോക്ക് സഹകരണ സംഘങ്ങൾ	28	30.9.2005
18.	ഫാമിംഗ് സഹകരണ സംഘങ്ങൾ	29	30.9.2005
19.	സെൻട്രൽ സ്റ്റോറുകൾ	34	30.9.2005
20.	മൊത്തവ്യാപാര ഉപഭോക്തൃ സഹകരണ സംഘങ്ങൾ	34	30.9.2005
21.	പൈമറി കൺസ്യൂമർ സഹകരണ സംഘങ്ങൾ	34	30.9.2005
22.	കോളേജ് സഹകരണ സ്റ്റോറുകൾ	34	30.9.2005
23.	സ്കൂൾ സഹകരണ സ്റ്റോറുകൾ	34	30.9.2005
24.	ഉപഭോക്തൃ സാധനങ്ങളുടെ വിതരണം	35	30.9.2005
25.	പൈമറി ഹൗസിംഗ് സഹകരണ സംഘങ്ങൾ	36	30.9.2005
26.	ലേബർ കോൺട്രാക്റ്റ് സഹകരണ സംഘങ്ങൾ	38	30.9.2005
27.	ഫോറസ്റ്റ് ലേബർ കോൺട്രാക്റ്റ് സഹകരണ സംഘങ്ങൾ	39	30.9.2005
28.	മറ്റ് നോൺ ക്രെഡിറ്റ് സംഘങ്ങൾ	40	15.10.2005
29.	ലിക്വിഡേഷനിലുളള സഹകരണ സംഘങ്ങൾ	44	15.10.2005
30.	കോ-ഓപ്പറേറ്റീവ് യൂണിയൻസ് ആന്റ് സൂപ്പർവൈസറി ഇൻസ്റ്റിറ്റ്യൂഷൻസ്	45	15.10.2005
31.	സഹകരണ വകുപ്പ് അഡ്മിനിസ്ട്രേറ്റീവ് സ്റ്റാഫ്	46 ഏ	15.10.2005
32.	എംപ്ലോയ്മെന്റ് ഇൻ കോ-ഓപ്പറേറ്റീവ് സൊസൈറ്റീസ്	46 ബി	15.10.2005
33.	ആർബിട്രേഷൻ ആന്റ് എക്സിക്യൂഷൻ കേസുകൾ	47	15.10.2005
34.	എംബസിൽമെന്റ് കേസുകൾ	48	15.10.2005
35.	സസ്പെൻഷൻ ഓഫ് കമ്മിറ്റീസ് ഓഫ് മാനേജ്മെന്റ് ഓഫ് സൊസൈറ്റീസ്	49	15.10.2005
36.	സൂപ്പർസെഷൻ	50	15.10.2005
37.	ഡേറ്റ റിലേറ്റിംഗ് കം ഇൻകം ആന്റ് എക്സ്പെന്റിച്ചർ	51	15.10.2005

സഹകരണ സംഘം രജിസ്ട്രാർക്കു വേണ്ടി

PROFORMA – I

Number Statement Regarding the Co-operative Societies as on 31-3-2005

District : **Circle :**

Sl.No.	Type of Societies/Banks	No. of societies as on 31-3-2004	No. of societies newly registered during 04-05	No. of societies liquidated during 04-05	Total number of societies as on 31-3-05 (col 3+4+5)	Of which Col. 6 no. of societies			Remarks if any
						Working	Dormant	Liquidated	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	Kerala State Co-operative Bank								
2	Kerala State Co-op. Agrl. Development Bank								
3	District Co-operate Bank								
4	Kerala State SC/ST Federation								
5	Kera Karshaka Sahakarana Federation								
6	Kerala State Co-op: Marketing Federation								
7	Kerala State Rubber Marketing Federation								
8	Kerala State Co-op: Consumer Federation								
9	Kerala State Co-op: Housing Federation								
10	Kerala State Co-op: Hospital Federation								
11	RAIDCO								
12	Kerala State Rubber Co-operative Ltd.								
13	Regional Central Co-op: Socs. For School Socs.								
14	Primary Agricultural Development Bank								
15	Primary Agricultural Credit Societies (Excluding Farmers Service Co-operative Banks/Socities)								
16	Farmers Service Co-operative Societies/Banks								
17	Agricultural Improvement Societies								
18	Rural Co-operative Banks/Societies								
19	Scheduled Caste Co-operative Societies								
20	Scheduled Tribe Co-operative Societies								
21	Urban Co-operative Banks (BR Act)								
22	Urban Co-operative Banks (Non BR Act)								
23	Employees Credit Co-op: Societies (BR Act)								
24	Employees Credit Co-op: Societies (Non BR Act)								
25	Primary Non Agrl. Credit Societies Others								
26	General Marketing Societies								
27	Special Marketing Societies								
28	Processing Co-operative Societies								
29	Poultry Co-operative Societies								

30	Other Live Stock Co-operative Societies								
31	Collective Farming Co-operative Societies								
32	Joint Farming Co-operative Societies								
33	Irrigation Co-operative Societies								
34	Other Industrial Co-operative Societies								
35	Wholesale Consumer Stores								
36	Primary Consumer Stores								
37	Central Co-operative Stores								
38	College Co-operative Stores								
39	School Co-operative Stores								
40	Primary Housing Co-operative Societies								
41	Labour Contract Co-operative Societies								
42	Forest Labourers Co-operative Societies								
43	Transport Ex-Servicemen Societies								
44	Transport Co-operative Societies Others								
45	Land Colonisation Co-operative Societies								
46	Better Farming Co-operative Societies								
47	Rubber Plantation Co-operative Societies								
48	Rubber Karshaka Co-operative Societies								
49	Agricultural Others Co-operative Societies								
50	Womens Co-operative Societies								
51	Rickshaw Pullers Co-operative Societies								
52	Autorickshaw Co-operative Societies								
53	Lime Shell Co-operative Societies								
54	Lime Burners Co-operative Societies								
55	Washermen Co-operative Societies								
56	Hospital & Dispensaries Co-operative Societies								
57	Literary Writers Co-operative Societies								
58	Printing Co-operative Societies								
59	Taxi-Drivers Co-operative Societies								
60	Chethuthozhilaly Co-operative Societies								
61	Canteen Co-operative Societies								
62	Social Welfare Co-operative Societies								
63	Educational Co-operative Societies								
64	Tailors Co-operative Societies								
65	Non Agrl. Co-operative Societies Others								

Assistant Registrar

CHECK LIST

Table 9

Col. 1=Col 39+ 41+ 43
Col. 12=Col 5+7+8+9+10+11
Col. 13=Col 14+15+16+20+21+22
Col. 16=Col 17+18+19
Col. 23=Col 13-12
Col. 32=Col 26-29
Col. 33=Col 27-30
Col. 34=Col 28-31

Table 9A

Col.1 = Col 6+11+16+21+26+31
Col. 2 = Col 7+12+17+22+27+32
Col. 3 = Col 8+13+18+23+28+33
Col. 4 = Col 9+14+19+24+29+34
Col. 5 = Col 10+15+20+25+30+35

Table 9B

Col.1=Col 2+3+4
Col. 5= Col 6+7+8
Col. 9 = Col 10+11+12
Col. 13 = Col 14+15+16
Col. 24 of Table 9 = Col 1 of Table 9A
Col 25 of Table 9 = Col 2of Table 9A = Col 1 of Table 9B
Col. 29 of Table 9 = Col 3 of Table 9A = Col 9 of Table 9B

PACS-FSS-SC-ST

Table 10

Col.1= Col 2+3 = Col 56+57+58 of Table 11
Col. 25 = Col 17+18+19+20+21+22+23+24

Table 11

Col 6 = Col 7+8+9
Col. 13= Col. 14+15+16+20+21+22
Col 14 = Col 1+3+4+5+6+10+11+12+13
Col 15 = Col 16+17+18+22+23+25+31+32
Col 18 = Col 19+20+21
Col. 32A = Col 15
Col. 33 = Col 15-14
Col. 34 = Col 34A+34B+34C
Col. 35 = Col 35A+35B+35C
Col. 42 = Col 36-39
Col 42 = Col 26-26A+27+28
Col 43 = Col 37-40
Col 44 = Col 38-41

Table 12

Col. 2 =Col 3+5+7+9+11+13+15+17+19
Col. 2A = Col 4+6+8+10+12+14+16+18+20
Col. 3+5 = Col 1 of Table 14

Table 12 A

Col.2 = Col. 6+10+14+18+22+26+30+34+38+42+ 46+50+54+58+ 62+66+70+74
Col.3 = Col.7+11+15+19+23+27+31+35+39+43+47+51+55+59+63+67+71+75
Col.4 = Col.8+12+16+20+24+28+32+36+40+44+48+52+56+60+64+68+72+76
Col.5 = Col.9+13+17+21+25+29+33+37+41+45+49+53+57+61+65+69+73+77

Table 12B

Col.2 = Col.6+10+14+18+22+26+30+34+38+42+46+50+54+58
Col.3 = Col.7+11+15+19+23+27+31+35+39+43+47+51+55+59
Col.4 = Col.8+12+16+20+24+28+32+36+40+44+48+52+56+60
Col.5 = Col.9+13+17+21+25+59+33+37+41+45+49+53+57+61

Table 13

Col. 1 = Col 3+5, Col.2=Col.4+6+8+10=26+27+28 of Table 11

Table 14

Col. 1= Col. 2+3+4+5+6+7+8+9+10+11+12 =Col. 3+5 of Table 12

COMMON CHECKS

Tab. 10 Col.29 <=Tab.15.ST Col.1 + Tab. 15 MT Col. 1 + Tab. 15 LT Col.1
Tab. 10 Col.29A <=Tab.15.ST Col.1A + Tab. 15 MT Col. 1A + Tab. 15 LT Col.1A
Tab. 10 Col.29B <=Tab.15.ST Col.1B + Tab. 15 MT Col. 1B + Tab. 15 LT Col.1B
Tab. 11 Col.34=Tab. 15 ST Col.2+Tab. 15 MT Col.2+Tab. 15 LT Col.2
Tab. 11 Col.35=Tab. 15 ST Col.3+Tab. 15 MT Col.3+Tab. 15 LT Col.3
Tab. 11 Col.22+23+25=Tab. 15 ST Col.4+Tab. 15 MT Col.4+Tab. 15 LT Col.4
Tab. 11 Col.26+27+28=Tab. 15 ST Col.5+Tab. 15 MT Col.5+Tab. 15 LT Col.5

Tab. 11 Col.22=Tab. 12 Col 2A=Tab. 15 ST Col.4
Tab. 11 Col.34A=Tab. 12 Col 2=Tab. 15 ST Col.2
Tab.11Col.34B=Tab.12A Col 2=Tab.15 MT Col.2
Tab. 11 Col. 35A = Tab.15 ST Col.3
Tab. 11 Col. 35B = Tab.15 MT Col.3
Tab. 11 Col. 26 = Tab.15 ST Col.5
Tab. 11 Col. 27 = Tab.15 MT Col.5
Tab. 11 Col. 23=Tab.15MT Col.4 =Tab.12A Col.4
Tab. 11 Col. 25=Tab.15LT Col.4 =Tab.12B Col.4
Tab. 11 Col. 28=Tab.15 LT Col. 5
Tab. 11 Col. 34C=Tab.15LT Col.2=Tab.12B Col.2
Tab. 11 Col.35C=Tab.15LT Col.3
Tab. 11 Col. 3+5=Col. 1 of Tab.14

Table 15 ST-MT-LT

Col. 1= Col. 6+11+16+21+26+31
Col. 1A= Col. 6A+11A+16A+21A+26A+31A
Col. 1B= Col. 6B+11B+16B+21B+26B+31B
Col. 2= Col. 7+12+17+22+27+32
Col. 2A= Col. 7A+12A+17A+22A+27A+32A
Col. 2B= Col. 7B+12B+17B+22B+27B+32B
Col. 3=Col. 8+13+18+23+28+33
Col. 3A=Col. 8A+13A+18A+23A+28A+33A
Col. 3B=Col. 8B+13B+18B+23B+28B+33B
Col. 4 =Col. 9+14+19+24+29+34
Col. 4A =Col. 9A+14A+19A+24A+29A+34A
Col. 4B =Col. 9B+14B+19B+24B+29B+34B
Col. 5 =Col. 10+15+20+25+30+35
Col. 5A =Col. 10A+15A+20A+25A+30A+35A
Col. 5B =Col. 10B+15B+20B+25B+30B+35B
Col. 31 =Col.36+41+46
Col. 31A =Col.36A+41A+46A
Col. 31B =Col.36B+41B+46B
Col. 32 =Col. 37+42+47
Col. 32A =Col. 37A+42A+47A
Col. 32B =Col. 37B+42B+47B
Col. 33 =Col. 38+43+48
Col. 33A =Col. 38A+43A+48A
Col. 33B =Col. 38B+43B+48B
Col. 34 =Col. 39+44+49
Col. 34A =Col. 39A+44A+49A
Col. 34B =Col. 39B+44B+49B
Col. 35 =Col.40+45+50
Col. 35A =Col.40A+45A+50A
Col. 35B =Col.40B+45B+50B

Table 16

Col. 2 = Col 3+4+5+6+6a+7+8+9
Col.11 = Col. 12 to 29 & Col 30 = Col 31 to 44

Table 19

Col. 6 = Col. 8+9+10+13+17+79
Col. 13 = Col. 14+15+16
Col. 22 = Col. 23+24+25
Col. 34 = Col. 7 = Col. 20+21+22+26+28+32+33
Col. 35 = Col. 34 - 6
Col. 26 = Col. 1 of Tab. 20A
Col. 26A = Tab. 20A Col. 1A
Col. 26B = Tab. 20A Col. 1B
Col. 26C = Tab. 20A Col. 1C
Col. 28 = Col. 8 of Tab. 20A
Col. 28A = Tab. 20A Col. 8A
Col. 28B = Tab. 20A Col. 8B
Col. 28C = Tab. 20A Col. 8C
Col. 26+28 = Col. 1 + Col. 8 of Tab. 20A
Col. 27+29 = Col. 2 of Table 21
Col. 36 = Col. 1 of Tab. 20
Col. 37 = Col. 8 of Tab. 20

Table 20 /20A

Col. 1 = Col. 2+3+4+5+6+7
Col. 1A = Col. 2A+3A+4A+5A+6A+7A
Col. 1B = Col. 2B+3B+4B+5B+6B+7B
Col. 1C = Col. 2C+3C+4C+5C+6C+7C
Col. 8 = Col. 9+10+11+12+13+14+15
Col.8A=Col.9A+10A+11A+12A+13A+14A+15A
Col. 8B = Col. 9B+10B+11B+12B+13B+14B+15B
Col.8C=Col.9C+10C+11C+12C+13C+14C+15C

Table 21

Col. 1 = Col. 3+5+7+9
Col. 1A = Col. 3A+5A+7A+9A
Col. 1B = Col. 3B+5B+7B+9B
Col. 2 = Col. 4+6+8+10
Col. 2A = Col. 4A+6A+8A+10A
Col. 2B = Col. 4B+6B+8B+10B

Table 22

Col. 9 = Col. 11+13+14+15+19+20+21+22
Col. 25 = Col. 26+27+28
Col. 15 = Col. 16+17+18
Col. 38 = Col. 37 - 9
Col. 37 = Col. 10 = Col. 23+24+25+29+31+35+36
Col. 29 = Col. 1 of Tab. 24 A
Col. 29A = Col. 1A of Tab. 24 A
Col. 29B = Col. 1B of Tab. 24 A
Col. 29C = Col. 1C of Tab. 24 A
Col. 31 = Col. 8 of Tab. 24 A
Col. 31A = Col. 8A of Tab. 24 A

Col. 31B = Col. 8B of Tab. 24 A
Col. 31C = Col. 8C of Tab. 24 A
Col. 30+32 = Col. 3 of Tab. 25

Table 23

Col. 2 = Col. 1 of Tab. 24
Col. 3 = Col. 8 of Tab. 24
Col. 4 = Col. 5+6

Table 24/24A

Col. 1 = Col. 2+3+4+5+6+7
Col. 8 = Col. 9+10+11+12+13+14+15

Table 25

Col. 2 = Col. 4+6+8+10
Col. 3 = Col. 5+7+9+11

Table 26

Col. 1 = Col. 77+78+79
Col. 2 should be = or < Col. 79

Table 27

Col. 1 = Col. 43+45+47
Col. 2 < or = Col. 47

Table 28

Col. 4 = Col. 5+6
Col. 10 = Col. 23+24+25+26+31+35
Col. 11 = Col. 12+13+17
Col. 19 = Col. 20+21+22

Table 29

Col. 9 = Col. 10+11
Col. 12 = Col. 22+30+38
Col. 22 = Col. 23+24+25+26
Col. 39 = Col. 40+41+42+43+44

Table 34

Col. 4 = Col. 5+6
Col. 7 = Col. 8+9+10
Col. 12 = Col. 26+27+29+30+31
Col. 13 = Col. 14+15+16+17
Col. 20 = Col. 21+23+24
Col. 42 = Col. 44 to 51

Table 35

Col. 2 = Col. 3+4

Table 36

Col. 7 = Col. 19+20+24+30
Col. 11 = Col. 12+13+14+15+16+17+18

Table 38

Col. 7 = Col. 8+12
Col. 15 = Col. 29+35+36+37+38
Col. 23 = Col. 24+25+26
Col. 40 = Col. 41+42+43
Col. 44 should be > or = Col. 40

Table 39

Col. 1 - 2 = Col. 3+4+5 = Col.33+35
Col. 6 = Col. 7+8
Col. 9 = Col. 18+20
Col. 22 = Col. 23+24+25

Table 40

Col. 8 = Col. 19+21+22+23+24+25
Col. 10 = Col. 10A+10B+10C

Table 43

Col. 3 = Col. 5+6+7+8+9+10
Col. 4 should be < or = Col. 2

Table 44

Col. 6 = Col. 2+4 - 5

Table 45

Col. 20 = Col. 21+22+23

Table 46A

Working strength should be less than or equal to sanctioned strength

Table 46B

Col. 1 = Col. 10+28+40+49+52-55
Col. 10 = Col. 4+7
Col. 28 = Col. 16+19+22+25
Col. 40 = Col. 34+37
Col. 49 = Col. 43+46

Table 47

Col. 1 = Col. 7 of previous year
Col. 2 = Col. 8 of previous year
Col. 7 = Col. 1+3 - 5
Col. 8 = Col. 2+4 - 6

Table 49

Col. 4 = Col. 1+2 - 3

Table 50

Col. 6 = Col. 1+3 - 4

Table 51

Col. 10 = Total of Col. 2 to 9 (Income)
Col. 21 = Total of Col. 2 to 20 (Expenditure)

2. GENERAL BODY

No recent circular is seen issued in this regard.

3. ELECTION TO COMMITTEE

Number	Subject	Page
35/81	Election to Committees of Co-operative Societies-notice for convening the General Body for election is essential-instructions issued.	75
29/82	സഹകരണ സ്ഥാപനങ്ങളിലെ ഭരണ സമിതികളിലേക്ക് തെരഞ്ഞെടുപ്പിനുവേണ്ടി വരുന്ന ചെലവുകൾ വഹിക്കുന്നതിനെ സംബന്ധിച്ച്.	76
50/83	സഹകരണ സ്ഥാപനങ്ങളിലെ തെരഞ്ഞെടുപ്പിനുവേണ്ടി ഉപയോഗിക്കുന്ന ബാലറ്റ് പേപ്പർ പ്രാദേശിക ഭാഷയിൽ അച്ചടിക്കുന്നതു-സംബന്ധിച്ച്.	77
57/83	Election-election to the Board of Directors of Societies-Instructions issued.	78
62/83	Co-operative societies Rules, 1969 (Kerala)	79
30/84	Co-operative Societies Rules 1969-Rules 26 and 35-Those who are enrolled within 30 days prior to date of issue of Notice for general body meeting if entitled to get themselves included in the list of members to be prepared under rule 35 (3) (b) and exercise the right to vote.	80
49/87	Kerala Co-Operative Societies Rules, 1969 Rule 35 (3) (a)-Not ultra vires of section 104 of the Kerala Co-operative Societies Act, 1969. The terms 'Notice' and 'intimation' - Meaning and distinction-Decision of High Court Communicated.	82
Lr. No. CP(1)30056/91. Dt. 21-8-1991	Co-op. Department-Election to Co-op. Societies Observation of the Hon'ble High Court in O.P.No.5248/89Y—Reg.	83
7/92	പ്രാഥമിക സഹകരണസംഘങ്ങൾ-തെരഞ്ഞെടുപ്പ് സംബന്ധിച്ച ചെലവുകൾ-നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നതു സംബന്ധിച്ച്.	84
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GOVERNMENT OF KERALA
ABSTRACT

Co-operation Establishment - Departmental Officers appointed as Part-time Administrators in Co-operatives under Section 32 and 33 of Kerala Co-operative Societies Act- rate of additional remundration-revised-Orders issued.

CO-OPERATION (A) DEPARTMENT

G..O.(Rt) No. 525/2000/Co-op Thiruvananthapuram, Dated 22-11-2000

Read : **1. G..O.(Rt) No.1568/74/ AD dated 5-7-1974**
2. G.O.(P) No.1559/99/ (26) Fin dated 7-7-1999
3. Letter No.G(1) 36860/99 dated 19-1-2000, 20-7-2000 from the RCS, Thiruvananthapuram

ORDER

As per Government Order read as first paper above. Government had granted permission under Rules 46 & 47 part I, Kerala Service Rules to the officers of Co-operative Department, appointed as Part Time Administrators in Co-operative Societies to receive additional remuneration subject Rules and subject to the condition that the additional remuneration should not exceed 20% of their basic pay.

2. As per Government Order read as II paper above Government ordered that the rates of charge allowance will be changed from 20% of pay to allowance equal to 10% of pay for holding additional charge.

3. The Registrar of Co-operative Societies therefore requested vide letter read as third paper above to fix the additional remuneration payable to Part Time Administrators appointed to manage the affairs of societies in view of Government Order 2nd Cited under Section 32 and 33 of the Kerala Co-operative Societies Act.

4. Government have examined the matter in detail and are pleased to revise the rate of change allowance of part-Time Administrators appointed to manage the affairs of Co-operative Societies as 10% of the Basic Pay in view of the G.O.(P)No.1559/99(26)/Fin,Dated.7-7-1999 subject to the conditions laid down in Rule 48 Part I. Kerala Service Rules.

By Order of the Governor
V.G. Indira Bai Amma
Joint Secretary to Government

No. G(1) 36860/99 Office of the Registrar Of Co-operative Societies, Thiruvananthapuram, Dated 19-4-2001

CIRCULAR No. 20/2001

Sub: **Co-operation-Department officers appointed as Part-time Administrators in Co-operative under section 32 and 33 of Kerala Co-operative Societies Act, 1969 - Rate of additional remuneration - revised - instruction issued**

Ref: **1) This office Circular No. 40/75 dated 28.5.1975**
2) This office Circular No. 14/86 dated 17.5.1986
3) G. O. (Rt) 73/86 dated 15.2.1986
4) G. O. (P) 1559/99/(26)/Fin dated 7.7.1999
5) G. O. (Rt) No. 525/2000/Co-op dated 22.11.2000

In the Circular first cited, guidelines were issued for the sanction of additional remuneration from Co-operative societies to the Departmental officers appointed as part-time Administrators in Co-operative Societies under section 32 and 33 of the Kerala Co-operative Societies Act. As per Circular 2nd cities, instruction were also issued with regard to the inspection of the societies managed by part-time administrators. Government vide G. O 5th cited, have revised the rate of charge allowance payable to part-time administrators appointed to manage the affairs of Co-operative Societies as 10% of the Basic Pay in the view of the G. O. (p) No. 1559/99/(26)/Fin. Dated 7.7.1999 subject to the conditions laid down in Rule 48 Part 1, Kerala Service Rules. Therefore, the Circular first cited is revised and the following instructions are issued accordingly.

1. The quantum of additional remuneration payable to Part-time Administrators appointed under Section 32 and 33 of the Kerala Co-operative Societies Act is to be fixed by the Registrar with reference to the financial position of the society/societies concerned and the extent of work of volume transaction.

2. Before sanctioning the remuneration, an assessment of work done by the Administrator should be conducted. The following factors should also be taken into account for sanctioning additional remunerations

(i) Action takne by the Administrator for Collection of overdues.

(ii) Recovery of long, pending items of assets such as suspense items, value of deficit stock, objected payment etc.

(iii) Rectification of defects pointed out in the audit, inspection, supersession notice etc.

(iv) General Progress made by the society during the term of the Administrator and the General/Financial position of the societies

(v) Business tumover, increase in share capital, deposits etc.

3. No remuneration shall be paid in respect of the following types of societes.

(i) SC/St Co-operative Societies

(ii) Defunct Societies coming under Audit Classification 'D'.

(iii) Societies with the working capital below 100,000/-

In respect of item (iii) remuneration may be allowed with the special sanction of the Registrar, taking into consideration of the man days spent, progress achieved during the period, nature of work and responsibilities etc.

4. Payment will be made only once in three months or after the entire period is over, whichever period is shorter.

5. The charge allowance payable to Part-time Administrators is limited to 10% of the Basic pay. This will be regulated as below.

i. Societes liable to pay Audit fee/Audit cost of Rs. 10,000 and above 10%.

ii. Societies liable to pay Audit fee/Audit cost of Rs. 5,000 and above out below Rs. 10,000 - 7%

iii. Other Societies liable to pay Audit Fee/Audit Cost below Rs. 5,000-5%

6. If the same officer functions as administrator in more than one societies, the total remuneration payable by all the societies together will be subject to a maximum of 10 percent of the basic pay and it shall be appropriated among the societies concerned on the basis of their working capital/business turnover.

7. For the purpose of the calculation of remuneration 15 days and above will be treated as onemonth and below 15 days willbe ignored.

8. On the basis of Government order 3rd cited, the above remuneration shall be sanctioned by the joint Registrar (General) of the districts concerned.

9. The charge of rates shall come into force with effect from 1.3.97 However, there shall be no recovery of charge allowance already paid at the pre revised rates.

10. All Societies managed by the Administrator/Administrators shall be inspected by the Assistant Registrars (General) Joint Registrar (General) at least once in three months and immediately after the period of Administrator is over and the societies where Assistant Registrars are working as Administrators inspection shall be conducted by the Joint Registrar (General) or any other authorised by him officer.

11. All joint Registrars are directed to comply with the above instructions strictly and also bring the contents of this circular to the notice or their subordinate officers concerned for strict complaince.

Dharam Veer
Registrar of Co-operative Societies

നമ്പർ സി.ജി .1/36628/2002 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 18.10.2002

സർക്കുലർ നമ്പർ 38/2002

വിഷയം : **അഡ്മിനിസ്ട്രേറർമാർ ഭരണനിർവഹണം നടത്തുന്ന സഹകരണ സംഘത്തിൽ/ ബാങ്കുകളിൽ വായ്പ ലഭിക്കാൻ അർഹതയുള്ളവർക്ക് അംഗത്വം നൽകുന്നതും വായ്പ അനുവദിക്കുന്നതിനുള്ള നിർദ്ദേശം സംബന്ധിച്ച്**

സൂചന : **1. ബഹു: സുപ്രീംകോടതിയിലെ 1930 1936/1999 നമ്പർ സിവിൽ അപ്പീൽ കേസിലെ 9.5.2002 ലെ വിധി (2000 (1) കെ എൽ. ഐ. 787 ാം നമ്പറായി റിപ്പോർട്ട് ചെയ്തിട്ടുളളത്)**

2. ബഹു: കേരള ഹൈക്കോടതിയുടെ ഒ.പി. നമ്പർ. 5821/2001 ലെ 6.3.2002 ലെ വിധി

അഡ്മിനിസ്ട്രേറർമാർ ഭരണ നിർവഹണം നടത്തുന്ന സഹകരണ സംഘം/ ബാങ്കുകളിൽ പുതുതായി അംഗങ്ങളെ ചേർക്കുന്നത്, ബഹു: സുപ്രീകോടതിയുടെ സൂചന (1) ലെ വിധിയിലൂടെ തടസ്സപ്പെട്ടിരിക്കുകയാണ്. ഇതുകാരണം ഇത്തരം സംഘങ്ങളുടെ/ബാങ്കുകളുടെ പ്രവർത്തനപരിധിയിലുളള അർഹരായ പുതിയ അപേക്ഷകർക്ക് വായ്പ ലഭിക്കുന്നതിന് തടസ്സം നേരിട്ടിട്ടുളളതായി പല പരാതികളും ലഭിച്ചിട്ടുണ്ട്. ഇക്കാര്യം പരിശോധിച്ചതിൽ സംഘത്തിൽ അംഗത്വം നൽകാൻ അഡ്മിനിസ്ട്രേറർമാർക്ക് കഴിയാത്തതുകാരണം അർഹതപ്പെട്ടവർക്ക് വായ്പ നൽകാൻ കഴിയാതെ വന്നിട്ടുളളതായും ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ട്.

ബഹു: കേരള ഹൈക്കോടതിയുടെ സൂചന (2) ലെ വിധിന്യായത്തിൽ അപേക്ഷകന് വായ്പ ലഭിക്കാൻ അർഹതയുണ്ടെങ്കിൽ അംഗമല്ലായെന്നുമാത്രം കാരണത്താൽ വായ്പ നാഷേധിക്കുവാൻ പാടില്ലായെന്നും, വായ്പ ഇടപാടുകൾ നടത്തേണ്ട ആവശ്യത്തിലേക്ക് അഡ്മിനിസ്ട്രേററർ അപേക്ഷകന് സംഘത്തിൽ അംഗത്വം നൽകാവുന്നതാണെന്നും തിരഞ്ഞെടുക്കപ്പെട്ട ഭരണസമിതിയുടെ അംഗീകാരത്തോടുകൂടി മാത്രമേ അത്തരം അംഗങ്ങളെ വോട്ടർപട്ടികയിൽ ഉൾപ്പെടുത്താൻ പാടുളളു എന്നും വ്യക്തമാക്കിയിട്ടുണ്ട്.

മേൽ സാഹചര്യത്തിൽ സൂചന (2) പ്രകാരമുളള ഹൈക്കോടതി ന്യായത്തിലെ വ്യവസ്ഥകൾക്ക് വിധേയമായി അഡ്മിനിസ്ട്രേററർമാർ ഭരണനിർവഹണം നടത്തുന്ന സംഘങ്ങളുടെ പ്രവർത്തനപരിധിയിലുളള അംഗത്തിന് അർഹതയുളളവരും വായ്പാ അപേക്ഷകരുമായ വ്യക്തികൾക്കും/സംഘങ്ങൾക്കും ബന്ധപ്പെട്ട സംഘങ്ങളിൽ അംഗത്വം നൽകാവുന്നതും വായ്പ അനുവദിക്കേണ്ടതുമാണ്.

ജെ. രവീന്ദ്ര രാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ ജി.(1) 12665/03

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 16.4.2003

സർക്കുലർ നമ്പർ 21/03

വിഷയം : **സഹകരണം സഹകരണ സംഘങ്ങളിലെ അഡ്മിനിസ്ട്രേറ്റർമാരുടെ ഭരണ കാലാവധി ദീർഘിപ്പിക്കുന്ന അപേക്ഷ അഡ്മിനിസ്ട്രേറ്റർമാരെ നിയമിച്ച ഉത്തരവിന്റെ പകർപ്പ് ഉള്ളടക്കം ചെയ്യുന്നതു സംബന്ധിച്ച് നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു**

സൂചന : **സഹകരണസംഘം രജിസ്ട്രാരുടെ 6.9.97 ലെ 21/97 നമ്പർ സർക്കുലർ**

സഹകരണസംഘം രജിസ്ട്രാരുടെ ഭരണനിയന്ത്രണത്തിൽ ഉള്ള സഹകരണ സ്ഥാപനങ്ങളിൽ അഡ്മിനിസ്ട്രേറ്റർമാരുടെ ഭരണ കാലാവധി ദീർഘി പ്പിക്കേണ്ടി വരുന്ന സന്ദർഭങ്ങളിൽ ടി കാലാവധി ദീർഘിപ്പിക്കുന്നതിനുള്ള തീരുമാനം വ്യക്തമായ

ശുപാർശയോടുകൂടി കാലാവധി അവസാനിക്കുന്നതിന് രണ്ടുമാസം മുമ്പേ അയച്ചുതരേണ്ടതാണെന്നും, കാലാവധി ദീർഘിപ്പിച്ചു നൽകി കഴിഞ്ഞാൽ മൂന്നു മാസത്തിനകം നിയമാനുസൃതം തെരഞ്ഞെടുപ്പുകൾ നടത്താൻ നടപടി സ്വീകരിക്കേണ്ടതാണെന്നും സൂചന സർക്കുലർ പ്രകാരം നിർദ്ദേശം നൽകിയിട്ടുണ്ട്. അപ്രകാരം കാലാവധി ദീർഘിപ്പിക്കുന്നതിലേക്ക് സമർപ്പിക്കുന്ന അപേക്ഷകളിൽ പലതിലും അഡ്മിനിസ്ട്രേറ്റർമാരെ നിയമിച്ച 1969 ലെ കേരള സഹകരണസംഘം നിയമത്തിലെ വ്യവസ്ഥയുടെ വിവരങ്ങൾ വ്യക്തമായി രേഖപ്പെടുത്തുന്നതിൽ വീഴ്ച വരുത്തുന്ന കാര്യം ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. ഇക്കാരണത്താൽ ഇതു സംബന്ധിച്ച ഉത്തരവുകൾ പുറപ്പെടുവിക്കുന്നതിന് ബുദ്ധിമുട്ടുണ്ടാക്കുന്നു.

ആയതിനാൽ 1969 ലെ കേരള സഹകരണസംഘം നിയമത്തിലെ വകുപ്പു 32 പ്രകാരമോ, വകുപ്പ് 33 പ്രകാരമോ സഹകരണ സ്ഥാപനങ്ങളിൽ നിയമിച്ചിട്ടുള്ള അഡ്മിനിസ്ട്രേറ്റർമാരുടെ ഭരണ കാലാവധി ദീർഘിപ്പിക്കുന്നതിനുള്ള അപേക്ഷകൾ സമർപ്പിക്കുമ്പോൾ ടി അപേക്ഷയോടൊപ്പം അഡ്മിനിസ്ട്രേറ്ററെ നിയമിച്ച ഉത്തരവിന്റെ പകർപ്പ് കൂടി നിർബന്ധമായും ഉൾപ്പെടുത്തേണ്ടതാണെന്ന് നിർദ്ദേശിക്കുന്നു.

ജില്ലാ ജനറൽ വിഭാഗം സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർമാർ ടി നിർദ്ദേശവും, സൂചന സർക്കുലറിലെ നിർദ്ദേശങ്ങളും കർശനമായി പാലിക്കുന്നതോടൊപ്പം മേൽ നിർദ്ദേശങ്ങൾ ബന്ധപ്പെട്ട എല്ലാ ഉദ്യോഗസ്ഥന്മാരെയും അറിയിക്കേണ്ടതാണ്.

ജെ..രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ എസ്.സി.റ്റി. (2) 17563/05

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, 27–04–2005

സർക്കുലർ നമ്പർ 12/05

വിഷയം : **പട്ടികജാതി/പട്ടികവർഗ്ഗ സഹകരണ സംഘങ്ങളിലെ അഡ്മിനിസ്ട്രേറ്റർ നിയമനം – അപേക്ഷ സമർപ്പിക്കുന്നത് സംബന്ധിച്ച്.**

സൂചന :

പട്ടികജാതി/പട്ടികവർഗ്ഗ സഹകരണ സംഘങ്ങളിലെ അഡ്മിനിസ്ട്രേറ്റർമാരുടെ കാലാവധി ദീർഘിപ്പിക്കുന്നതിനുള്ള അപേക്ഷ പലപ്പോഴും വർഷങ്ങൾക്കു ശേഷമാണ് സർക്കാരിൽ സമർപ്പിക്കാൻ കഴിയുന്നത്. അതായത് ഗുരുതരമായ വീഴ്ചയായി സർക്കാർ ഓർമ്മപ്പെടുത്തിയിട്ടുണ്ട്. ഈ സാഹചര്യത്തിൽ എല്ലാ ജോയിന്റ് രജിസ്ട്രാർമാരും അഡ്മിനിസ്ട്രേറ്ററുടെ കാലാവധി നീട്ടുന്നതിനുള്ള അപേക്ഷ സമർപ്പിക്കും പോലെ താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ പാലിക്കേണ്ടതാണ്.

1. ഏതെങ്കിലും ഒരു സംഘത്തിലെ ഭരണാധിപന്റെ കാലാവധി തീരുന്നതിന് മൂന്നു മാസം മുമ്പു തന്നെ കാലാവധി ദീർഘിപ്പിക്കുന്നതിനുള്ള അപേക്ഷ രജിസ്ട്രാർ ആഫീസിൽ ലഭ്യമായിരിക്കണം. അല്ലാത്ത പക്ഷം അപേക്ഷ താമസിച്ചതിന്റെ കാരണം വ്യക്തമാക്കാൻ അതാത് ജോയിന്റ് രജിസ്ട്രാർ ബാധ്യസ്ഥനായിരിക്കും.

2. ഒരുവർഷത്തിൽ കുറഞ്ഞ കാലയളവിലേക്കാണ് കാലാവധി ദീർഘിപ്പിക്കുന്നതിനുള്ള അപേക്ഷ സമർപ്പിക്കുന്നതെങ്കിൽ ആ കാലയളവിനുള്ളിൽ തെരഞ്ഞെടുപ്പ് നടത്തി പുതിയ ഭരണ സമിതിയ്ക്ക് ഭരണം കൈമാറാൻ കഴിയുമോ എന്ന് വ്യക്ത

മാക്കേണ്ടതും കഴിയുകയില്ലെങ്കിൽ കുറഞ്ഞത് ഒരു വർഷത്തേക്ക് എങ്കിലും കാലാവധി ദീർഘിപ്പിക്കുന്നതിനുള്ള അപേക്ഷ സമർപ്പിക്കേണ്ടതുമാണ്.

3. സംഘത്തിൽ ഇലക്ഷൻ നടന്നുവെങ്കിൽ ആ തീയതിയും, പുതിയ ഭരണ സമിതി ചാർജ്ജെടുത്ത തീയതിയും വ്യക്തമായും രേഖപ്പെടുത്തേണ്ടതാണ്. പുതിയ ഭരണസമിതി ചാർജ്ജെടുത്ത തീയതിയുടെ തലേ ദീവസം വരെ നിലവിലുള്ള ഭരണാധിപന്റെ കാലാവധി നീട്ടിയാൽ മതിയാകും.

ഉദാ: 2/4/05 തെരഞ്ഞെടുപ്പ് നടക്കുകയും 4/4/05 ന് പുതിയ ഭരണ സമിതി ചാർജ്ജെടുക്കുകയും ചെയ്താൽ 3/4/05 വരെ നിലവിലുള്ള ഭരണാധിപന്റെ കാലാവധി ദീർഘിപ്പിച്ചാൽ മതിയാകും അതുപോലെ തന്നെ 2/4/05 ന് തന്നെ പുതിയ ഭരണസമിതി ചാർജ്ജെടുത്തുവെങ്കിൽ 1/4/05 വരെ ഭരണാധിപന്റെ കാലാവധി ദീർഘിപ്പിച്ചാൽ മതിയാകും.

പല അപേക്ഷകളിലും ഇത് 4/4/05 അല്ലെങ്കിൽ 2/4/05 എന്ന ക്രമത്തിലാണ് തീരുമാനം എടുക്കുന്നത്.

4. അപേക്ഷയിൽ താഴെ പറയുന്ന രേഖകൾ ഉണ്ടായിരിക്കണം.

എ. നേരത്തെ ഭരണാധിപന്റെ കാലാവധി ദീർഘിപ്പിച്ചുകൊണ്ടുള്ള ഉത്തരവുകൾ (അതാത് ജോയിന്റ് രജിസ്ട്രാർ ആദ്യത്തെ ഒരു വർഷം കാലാവധി ദീർഘിപ്പിച്ചതിന്റെ പകർപ്പുകൾ – 2 കോപ്പി വീതം)

ബി. സർക്കാരാണ് കാലാവധി ദീർഘിപ്പിച്ചതെങ്കിൽ അതിന്റെ പകർപ്പ്.

സി. സർക്കാർ ഉത്തരവിന്റെ നമ്പറും തീയതിയും എസ്.ആർ. ഒ. നമ്പരും ജോയിന്റ് രജിസ്ട്രാറുടെ കത്തിലെ സൂചനയിൽ ഉൾപ്പെടുത്തണം.

ഡി. സംഘം അഡ്മിനിസ്ട്രേറ്ററുടെ തീരുമാനത്തിന്റെ അസ്സൽ പകർപ്പുകൾ 2 കോപ്പി (ഫോട്ടോസ്റ്റാറ്റ് പാടില്ല).

മേൽ നിർദ്ദേശങ്ങൾ എല്ലാ ഉദ്യോഗസ്ഥന്മാരും കർശ്ശനമായി പാലിക്കേണ്ടതാണ്.

കെ. കേശവൻ

സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

11. CUSTODY OF ASSETS

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12. REMUNERATION AND RESTRICTIONS

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10/95	സഹകരണവകുപ്പ് പ്രാഥമിക വിപണന സംസ്ക്കരണ സഹകരണ സംഘങ്ങളിലെ പ്രസിഡന്റുമാരുടെ ഹോണറേറിയം അനുവദിച്ച് ഉത്തരവ് പുറപ്പെടുവിച്ചിരിക്കുന്നു.	54
11/95	സഹകരണ വകുപ്പ്-പ്രാഥമിക വിപണന സംസ്ക്കരണ സംഘങ്ങളിലെ ഭരണസമിതി അംഗങ്ങളുടെ സിറ്റിംഗ് ഫീസിന്റെ നിരക്ക് നിശ്ചയിച്ച്കൊണ്ട് ഉത്തരവ് പുറപ്പെടുവിച്ചിരിക്കുന്നു.	54
19/95	Co-operatives-primary Housing Co-operative Societies-Fixing of the Maximum rates of travelling allowances, daily allowances and sitting fees to the members of the Board of Directors of the primary Housing Co-operative Societies under rule 48 (5) of the KCS Rules 1969 - Regarding.	55
19/2000	Kerala State Co-operative Bank/District Co-op: Banks/Kerala State Co-operative Agricultural and Rural Development Bank/Primary Agricultural and Rural Development Banks/Urban Banks/Primary Credit societies (Agricultural and Non Agricultural Credit Societies)-payment of T.A., D.A. and sitting fees to Board of Directors-Honorarium to Directors-Revised rates fixed-Regarding.	59
35/2000	Revision of T.A., D.A., Sitting fee and Honorarium to president of Co-operatives fixed-Modification ordered	60

കേരള സർക്കാർ

(സംഗ്രഹം)

പൊതുവിദ്യാഭ്യാസം - ഗവൺമെന്റ് / എയിഡഡ് സ്ക്കൂളുകളിലെ സ്ക്കൂൾ സഹകരണ സംഘം സെക്രട്ടറിമാരുടെ ചുമതല വഹിക്കുന്ന അദ്ധ്യാപകരുടെ ഹോണറ്റേറിയം പുതുക്കി നിശ്ചയിച്ച് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

പൊതു വിദ്യാഭ്യാസ (ജെ) വകുപ്പ്

ജി.ഒ.(എം.എസ്.) 282/2000/പൊ. വി. വ. തിരുവനന്തപുരം, തിയതി 16.8.2000

പരാമർശം : **1. ജി.ഒ. (എം.എസ്.) 119/81/പൊ.വി. തീയതി 27 - 6 - 81**

2. സഹകരണസംഘം രജിസ്ട്രാറുടെ സി.എസ്.5. 1208/90 തീയതി 25-8-90, സി.എസ്.(5) 48756/96 തീയതി 15-2-97, സി.എസ്(5) 54092/98 തീയതി 7-6-2000 കത്തുകൾ

ഉത്തരവ്

സംസ്ഥാനത്തെ ഗവൺമെന്റ്/എയിഡഡ് സ്ക്കൂളുകളിലെ സ്കൂൾ സഹകരണസംഘം സെക്രട്ടറിമാരുടെ ചുമതല വഹിക്കുന്ന അദ്ധ്യാപകർക്ക്, പരാമർശം 1 ലെ സർക്കാർ ഉത്തരവ് പ്രകാരം നിശ്ചയിച്ച് പ്രതിമാസം പരമാവധി ഹോണറ്റേറിയം 50 രൂപായിൽ നിന്നും 100 രൂപയായി (നൂറ് രൂപ) സംഘം ബൈലാ‍യ്ക്കും കെ.എസ്.ആർ.

പാർട്ട് ഒന്നിലെ റൂൾ 48ലെ വ്യവസ്ഥകൾക്കും വിധേയമായി പുതുക്കി നിശ്ചയിച്ചു കൊണ്ട് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

ഗവർണറുടെ ഉത്തരവിൻപ്രകാരം
കെ. നളിനി
അഡിഷണൽ സെക്രട്ടറി

നമ്പർ എം.പി. (2) 23738/2000 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്, തിരുവനന്തപുരം, തിയതി 16.6.2001

സർക്കുലർ നമ്പർ 24/2001

വിഷയം : **സഹകരണ വകുപ്പ് പ്രാഥമിക മാർക്കറിംഗ് സഹകരണ സംഘങ്ങളിലെ ഭരണസമിതി അംഗങ്ങളുടെ യാത്രാബത്ത, ദിനബത്ത സിറിംഗ് ഫീ, പ്രസിഡന്റിന്റെ ഹോണറേറിയം എന്നിവ പുതുക്കി നിശ്ചയിച്ച ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.**

സൂചന : **1 വിവിധ മാർക്കറിംഗ് സഹകരണ സംഘങ്ങളിലെ പ്രസിഡന്റുമാരിൽ നിന്നും ലഭിച്ച നിവേദനങ്ങൾ**
2. ഈ ആഫീസിലെ 1.6.95-ാം തിയതിയിലെ 10/95-ാം നമ്പർ സർക്കുലർ
3. ഈ ഓഫീസിലെ 3.6.95-ാം തിയതിയിലെ 11/95-ാം നമ്പർ സർക്കുലർ

പ്രാഥമിക മാർക്കറിംഗ് സഹകരണ സംഘങ്ങിലെ ഭരണസമിതി അംഗങ്ങൾക്ക് നിലവിൽ അനുവദിക്കപ്പെട്ടിട്ടുള്ള സിറിംഗ് ഫീസും പ്രസിഡന്റിനുള്ള ഹോണറേറിയം പുതുക്കി നിശ്ചയിക്കണമെന്ന് ആവശ്യപ്പെട്ടുകൊണ്ട് സൂചന പ്രകാരം നിവേദനങ്ങൾ ലഭിക്കുകയുണ്ടായി. നവേദനത്തിൽ പറയുന്ന കാര്യങ്ങൾ വിശദമായി പരവശോധിക്കുകയും പ്രാഥമിക വിപണന സഹകരണ സംഘങ്ങളിലെ എല്ലാ ക്ലാസുകളിലുംപെട്ട സംഘങ്ങളിലെ പ്രസിഡന്റുമാർക്ക് ഹോണറേറിയം അനുവദിക്കുന്നത് അതാതു സംഘങ്ങളുടെ സാമ്പത്തിക സ്ഥിതിയനുസരിച്ച് ഗുണകരമായിരിക്കില്ലെന്ന് വിലയിരുത്തുകയാണ് ചെയ്തിട്ടുള്ളത്. എന്നാൽ സൂചന 2.3 പ്രകാരം അനുവദിച്ച നിരക്കുകൾ വർഷങ്ങൾക്കു മുമ്പ് അനുവദിച്ചതാണെന്നത് കണക്കിലെടുത്തും ആയത് പുതുക്കി നിശ്ചയിക്കേണ്ടതാണെന്ന് ബോദ്ധ്യം വന്നതിനാൽ പ്രാഥമിക മാർക്കറിംഗ് സഹകരണ സംഘങ്ങളുടെ ഭരണസമിതി അംഗങ്ങൾക്കുള്ള സിറിംഗ് ഫീസ്, ഹോണറേറിയം എന്നിവ താഴെ പറയുന്ന പ്രകാരം പുതുക്കി നിശ്ചയിച്ചുകൊണ്ട് ഉത്തരവ് നല്കുന്നു.

ക്ലാസ്	**സിറിംഗ് ഫീസ്**	**ഹോണറേറിയം**
സഹകരണ സംഘം നിയമത്തിലെ 80 -ാം വകുപ്പും ചട്ടം 182 ഉം അനുസരിച്ച്		
1	125/ രൂപ	1250/ രൂപ
2	100/ രൂപ	ഇല്ല
3	90/ രൂപ	ഇല്ല
4	70/ രൂപ	ഇല്ല

ഓരോ സംഘവും ചട്ടം 48ഉപചട്ടം 8ൽ അനുശാസിക്കുന്ന പ്രകാരം സംഘങ്ങളുടെ സാമ്പത്തിക ശേഷി കണക്കിലെടുത്ത് മേൽ പറഞ്ഞ നിരക്കുകളിൽ കവിയാതെയുള്ള സിറ്റിംഗ് ഫീസും ഹോണറേറിയം നിശ്ചയിച്ച് നിയമാവലിയിൽ ഭേദഗതി വരുത്തേണ്ടതാണ്.

ഡോ.കെ. ഇളങ്കോവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ

നമ്പർ ജി1 /7399/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 21.2.03

സർക്കുലർ നമ്പർ 7/2003

വിഷയം : **സഹകരണസംഘം രജിസ്ട്രാറുടെ നിയന്ത്രണത്തിൽ പ്രവർത്തിക്കുന്ന വിവിധ അപെക്സ് സഹകരണസ്ഥാപനങ്ങളിലെ ചെയർമാൻ/ പ്രസിഡന്റുമാർക്ക് ഹോണറേറിയം വർദ്ധിപ്പിച്ചു നൽകുന്നത് സംബന്ധിച്ച്.**

സൂചന : **1) സഹകരണ സംഘം രജിസ്ട്രാറുടെ 26.4.00 ലെ സർക്കുലർ നമ്പർ 19/2000**
2) സഹ.സംഘം രജിസ്ട്രാറുടെ 22.10.02ലെ എം.പി. (4) 34406/02 നമ്പർ ഉത്തരവ്
3) സഹ.സംഘം രജിസ്ട്രാറുടെ 16.2.00.ലെ സി.എസ്.(1)54201/99 നമ്പർ ഉത്തരവ്
4) സഹ.സംഘം രജിസ്ട്രാറുടെ 21.7.00 ലെ എം.പി. 5/24114/00 നമ്പർ ഉത്തരവ്
5) കേരള സംസ്ഥാന സഹകരണ കൺസ്യൂമർ ഫെഡറേഷൻ മാനേജിംഗ് ഡയറക്ടറുടെ 20.11.02 ലെ കത്ത്
6) കേരള കേരകർഷക സഹകരണഫെഡറേഷൻ മാനേജിംഗ് ഡയറക്ടരുടെ 15.02.03.ലെ കത്ത്

സൂചന 1 പ്രകാരം കേരള സംസ്ഥാന സഹകരണ ബാങ്ക്, കേരള സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്ക് എന്നീസ്ഥാപനങ്ങളിലെ പ്രസിഡന്റുമാർക്ക് പ്രതിമാസം 4000/ രൂപ വീതവും സൂചന 2 പ്രകാരം കേരള കേര കർഷക സഹകരണ ഫെഡറേഷൻ ചെയർമാന് 2500/ രൂപയും, സൂചന 3 പ്രകാരം കേരള സംസ്ഥാന കൺസ്യൂമർ ഫെഡറേഷൻ പ്രസിഡന്റിന് 2500/ രൂപയും, സൂചന 4 പ്രകാരം കേരള സംസ്ഥാന സഹകരണ റബ്ബർ മാർക്കറ്റിംഗ്ഫെഡറേഷൻ ചെയർമാന് 3000/ രൂപയും ഹോണറേറിയം അനുവദിച്ചുകൊണ്ട് ഉത്തരവ് പുറപ്പെടുവിച്ചിട്ടുണ്ട്. സൂചന 5,6 എന്നിവ പ്രകാരം യഥാക്രമം കേരള സംസ്ഥാന സഹകരണ കൺസ്യൂമർ ഫെഡറേഷൻ പ്രസിഡന്റിനും, കേരള കേര കർഷക സഹകരണ ഫെഡറേഷൻ ചെയർമാനും, അവർക്ക് ലഭിക്കുന്ന ഹോണറേറിയും തുക 4000/ രൂപയായി വർദ്ധിപ്പിക്കമെന്ന് ആവശ്യപ്പെട്ടിരുന്നു.

സഹകരണസംഘം രജിസ്ട്രാറുടെ നിയന്ത്രണത്തിൽ പറയുന്ന അപെക്സ് സഹകരണ സംഘങ്ങളിലെ ചെയർമാൻ/പ്രസിഡന്റുമാർക്ക് വിവിധ നിരക്കിലാണ് ഇപ്പോൾ ഹോണറേറിയം നല്കി വരുന്നത് എന്ന സാഹചര്യത്തിലും അവ ഏകീകരിക്കുന്നത് ഉചിതമായിരിക്കും എന്നതിനാലും ടി തുക വർദ്ധിപ്പിക്കണമെന്ന ആവശ്യം ഉന്നയിച്ചിരിക്കുന്നതിനാലും സംസ്ഥാനത്തെ സഹകരണ സംഘം രജിസ്ട്രാറുടെ നിയന്ത്രണത്തിലുള്ള താഴെ പറയുന്ന അപെക്സ് സഹകരണ

സ്ഥാപനങ്ങളിലെ പ്രസിഡന്റ്/ചെയർമാൻ എന്നിവരുടെ ഹോണറേറിയം പ്രതിമാസം 4000/ രൂപയായി പുതുക്കി നിശ്ചയിച്ചുകൊണ്ട് ഉത്തരവാകുന്നു.

1) കേരള സംസ്ഥാന സഹകരണ കൺസ്യൂമർ ഫെഡറേഷൻ എറണാകുളം

2) കേരള കേരകർഷക സഹകരണ ഫെഡറേഷൻ, തിരുവനന്തപുരം

3) കേരള സംസ്ഥാന സഹകരണ റബർ മാർക്കറ്റിംഗ് ഫെഡറേഷൻ, എറണാകുളം

എറണാകുളത്തുള്ള കേരള സംസ്ഥാന സഹകരണ ഹൗസിംഗ് ഫെഡറേഷൻ, കേരള സംസ്ഥാന സഹകരണ മാർക്കറ്റിംഗ് ഫെഡറേഷൻ, എന്നീ സഹകരണ അപെക്സ് സ്ഥാപനങ്ങളിലെ പ്രസിഡന്റുമാർക്കും 4000/ രൂപ ക്രമത്തിൽ ഹോണറേറിയും നിജപ്പെടുത്തുന്നു.

പ്രസ്തുത നിരക്ക് ബന്ധപ്പെട്ട അപെക്സ് സഹകരണ ഫെഡറേഷനുകളിലെ ഇപ്പോഴത്തെ ഭരണസമിതി ചാർജ് എടുത്ത തീയതി മുതൽ പ്രാബല്യത്തിൽ വരുന്നതായിരിക്കും.

ജെ. രവീന്ദ്ര രാജു
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സി.ബി. (2) 25179/2003

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 18.6.03

സർക്കുലർ നമ്പർ 32/2003

വിഷയം : **സഹകരണവകുപ്പ് സംസ്ഥാന സഹകരണ ബാങ്ക് ജില്ലാ സഹകരണ ബാങ്കുകൾ, സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്ക്, അർബൻ സഹകരണ ബാങ്കുകൾ പ്രാഥമിക കാർഷിക സഹകരണ സംഘങ്ങൾ/ബാങ്കുകൾ പ്രസിഡന്റ്/ചെയർമാൻമാർക്കുള്ള ഹോണറേറിയം വർദ്ധിപ്പിക്കുന്നത് സംബന്ധിച്ച് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു**

സൂചന : **രജിസ്ട്രാരുടെ 19/2000 നമ്പർ സർക്കുലർ**

സൂചന 1 പ്രകാരം സംസ്ഥാന സഹകരണ ബാങ്ക് ജില്ലാ സഹകരണ ബാങ്കുകൾ സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്ക്, അർബൻ സഹകരണ ബാങ്കുകൾ പ്രാഥമിക കാർഷിക സഹകരണസംഘങ്ങൾ/ബാങ്കുകൾ എന്നിവയുടെ പ്രസിഡന്റുമാരുടെ ദിനബത്ത, യാത്രപടി, സീറ്റിംഗ് ഫീസ്, ഹോണറേറിയം എന്നിവ പുനർനിശ്ചയിച്ച് നൽകിയിരുന്നു. എന്നാൽ മേൽ സംഘങ്ങളുടെ/ബാങ്കുകളുടെ പ്രവർത്തന വൈപുലീകരണത്തിന്റെ അടിസ്ഥാനത്തിൽ മേൽ സഹകരണ ബാങ്കുകളുടെ/സംഘങ്ങളുടെ പ്രസിഡന്റ്മാരുടെ ജോലി വളരെയധികം വർദ്ധിക്കുകയും ടിയാന്മാരുടെ സേവനം ബാങ്കിന് ദൈനംദിന ആവശ്യമായി വരുന്നത് പരിഗണിച്ചും, ഹോണറേറിയം വർദ്ധിപ്പിക്കേണ്ടതാണെന്ന് സഹകാരികളിൽ നിന്ന് ആവശ്യമുയർന്നതിന്റെ അടിസ്ഥാനത്തിലും താഴെ പരാമർശിക്കുന്ന ബാങ്കുകളുടെ/സംഘങ്ങളുടെ പ്രസിഡന്റുമാരുടെ പ്രതിമാസ ഹോണറേറിയം കേരള സഹകരണ ചട്ടം 49 ന് വിധേയമായി പുനർനിശ്ചയിച്ചു കൊണ്ട് ഉത്തരവാകുന്നു.

സ്ഥാപനം	നിലവിലുള്ള നിരക്ക്	പുതിയ നിരക്ക്
സംസ്ഥാന സഹകരണബാങ്ക്	4000	5000
ജില്ലാ സഹകരണ ബാങ്ക്	3250	4000
സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്ക്	4000	5000
ബാങ്ക്		
ഗ്രേഡ്	2000	2500
ക്ലാസ് I	1500	2000
II	1300	1500
III	1100	1300

സ്ഥാപനം	നിലവിലുള്ള നിരക്ക്	പുതിയ നിരക്ക്
ക്ലാസ് IV	1000	1200
V	800	1000
കാർഷിക വായ്പ സഹകരണ സംഘങ്ങൾ		
ഗ്രേഡ്	2000	2500
ക്ലാസ് I	1500	2000
II	1300	1500
III	1100	1300
IV	1000	1200
V	800	1000
VI	600	800

ടി നിരക്ക് തുകയ്ക്ക് 1.6.2003 മുതൽ പ്രാബല്യമുണ്ടായിരിക്കുന്നതാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ ഫിൻ.ഏ.(2) 33362/2003 — സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്, തിരുവനന്തപുരം, തീയതി 05.08.2003

സർക്കുലർ നമ്പർ 33/2003

വിഷയം : **സഹകരണ വകുപ്പ് - സംസ്ഥാന സഹകരണബാങ്ക്, കേരള സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്ക്, ജില്ലാ സഹകരണ ബാങ്കുകൾ, മറ്റു അപ്പക്സ് ഫെഡറേഷനുകൾ - വൈസ് പ്രസിഡന്റ്/വൈസ് ചെയർമാൻമാർ - ഹോണറേറിയം നിശ്ചയിച്ചുകൊണ്ട് ഉത്തരവാകുന്നു**

സൂചന : **1. രജിസ്ട്രാരുടെ 19/2000 നമ്പർ സർക്കുലർ**
2. രജിസ്ട്രാരുടെ 7/2003 നമ്പർ സർക്കുലർ
3. രജിസ്ട്രാരുടെ 32/2003 നമ്പർ സർക്കുലർ

സംസ്ഥാന സഹകരണബാങ്ക്, കേരള സംസ്ഥാന സഹകരണ കാർഷിക

ഗ്രാമവികസന ബാങ്ക്, ജില്ലാ സഹകരണ ബാങ്കുകൾ എന്നിവയുടെ പ്രസിഡന്റുമാർക്ക് ഹോണറേറിയം നിശ്ചയിച്ചുകൊണ്ട് സൂചന 1 പ്രകാരം ഉ ത്തരവ് പുറപ്പെടുവിച്ചിരുന്നു. സൂചന 2 പ്രകാരം, സംസ്ഥാനത്തിലെ മറ്റ് അപ്പക്സ് ഫെഡറേഷനുകളുടെയും പ്രസിഡന്റുമാരുടെയും ഹോണറേറിയം പുതുക്കി നിശ്ചയിച്ചുകൊണ്ട് ഉത്തരവ് പുറപ്പെടുവിക്കുകയും സൂചന 3 പ്രകാരം കേരള സംസ്ഥാന സഹകരണ ബാങ്ക്, കേരള സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്ക്, ജില്ലാ സഹകരണ ബാങ്കുകൾ എന്നിവയുടെ പ്രസിഡന്റ്/ചെയർമാൻമാരുടെ ഹോണറേറിയം ടി സ്ഥാപനങ്ങളുടെ ജോലി ഭാരം കണക്കിലെടുത്ത് പുതുക്കി നിശ്ചയിച്ചുകൊണ്ട് വീണ്ടും ഉത്തരവ് പുറപ്പെടുവിക്കുകയുണ്ടായി. എന്നാൽ ടി സ്ഥാപനങ്ങളിലെ പ്രസിഡന്റുമാർക്ക് യാതൊരു പ്രതിഫലവും നിശ്ചയിച്ചു നൽകിയിട്ടില്ല. അപ്പക്സ് ബാങ്കുകളുടെയും ഫെഡറേഷനുകളുടെയും, ജില്ലാ സഹകരണ ബാങ്കുകളുടെയും പ്രവർത്തന വൈപുല്യകരണത്തിന്റെ ഭാഗമായി, വൈസ് പ്രസിഡന്റുമാർക്കും ഹോണറേറിയം നൽകേണ്ടതാണെന്ന് കാണുകയാൽ താഴെ പരാമർശിക്കുന്ന സ്ഥാപനങ്ങളുടെ വൈസ് പ്രസിഡന്റുമാർക്കു കൂടി കേരള സഹകരണ ചട്ടം 49ന് വിധേയമായി പ്രതിമാസ ഹോണറേറിയം നൽകുന്നതിന് ഉത്തരവാകുന്നു.

1. കേരള സംസ്ഥാന സഹകരണ ബാങ്ക്	2000/ രൂപ
2. കേരള സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്ക്	2000/ രൂപ
3. കേരള സംസ്ഥാന സഹകരണ കൺസ്യൂമർ ഫെഡറേഷൻ ക്ലിപ്തം	2000/ രൂപ
4. കേരള സംസ്ഥാന സഹകരണ റബർ മാർക്കറ്റിംഗ് ഫെഡറേഷൻ ക്ലിപ്തം	2000/ രൂപ.
5. കേരള സംസ്ഥാന സഹകരണ മാർക്കറ്റിംഗ് ഫെഡറേഷൻ ക്ലിപ്തം	2000/ രൂപ
6. കേരള സംസ്ഥാന സഹകരണ കേര കർഷക ഫെഡറേഷർ ക്ലിപ്തം	2000/ രൂപ
7. കേരള സംസ്ഥാന സഹകരണ ഹൗസിംഗ് ഫെഡറേഷൻ ക്ലിപ്തം	2000/ രൂപ
8. ജില്ലാ സഹകരണ ബാങ്കുകൾ	2000/ രൂപ

ടി നിരക്കുകൾ 1.6.2003 മുതൽ പ്രാബല്യമുണ്ടായിരിക്കുന്നതാണ്.

കെ.കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ

നമ്പർ എച്ച്. വി. (2) 14844/03

സഹകരണസംഘം രജിസ്ട്രാറാഫിസ്,
തിരുവനന്തപുരം, തീയതി 16–06–2004

സർക്കുലർ നമ്പർ 22/04

വിഷയം : **സഹകരണവകുപ്പ് – സംസ്ഥാനത്തെ വനിതാ സഹകരണസംഘങ്ങളിലെ ഭരണസമിതി അംഗങ്ങൾക്ക് സിറ്റിംഗ് ഫീസ് പ്രസിഡന്റിന് ഹോണറേറിയം എന്നിവ അനുവദിക്കുന്നത് സംബന്ധിച്ച് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു**

സൂചന : 1. കരിവെള്ളൂർ പെരളം പഞ്ചായത്ത് വനിത സഹകരണ സംഘം ഭരണസമിതിയുടെ 27–02–2002 1–ാം നമ്പർ തീരുമാനം
2. ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാർമാരുടെ അഭിപ്രായം

സംസ്ഥാനത്ത് പ്രവർത്തിക്കുന്ന വനിതാ സഹകരണ സംഘങ്ങളിലെ ഭരണ സമിതി അംഗങ്ങൾക്ക് സിറ്റിംഗ് ഫീസ് നൽകുന്നതിനും, പ്രസിഡന്റിന് ഹോണറേറിയം നൽകുന്നതിനും വ്യവസ്ഥകളൊന്നും നിലവിലില്ല. വനിത സഹകരണ സംഘങ്ങളുടെ പ്രവർത്തനം മിക്ക ജില്ലകളിലും മെച്ചപ്പെട്ട രീതിയിലാണ് നടക്കുന്നതെന്ന് ജോയിന്റ് രജിസ്ട്രാർമാർ റിപ്പോർട്ട് ചെയ്തിട്ടുണ്ട്. സംഘങ്ങളുടെ പ്രവർത്തനമൂലധനവും വായ്പ ബാക്കി നിൽപ്പും, വായ്പേതര പ്രവർത്തനങ്ങളും ക്രമാനുഗതമായി വർദ്ധിച്ചു വരുന്നുണ്ട് എന്ന് മനസ്സിലാക്കുന്നു. മിക്ക സംഘങ്ങളിലും ശമ്പളം പറ്റുന്ന ജീവനക്കാർ നിലവിലില്ല. ഭരണസമിതി അംഗങ്ങളാണ് അപ്രകാരമുള്ള സംഘങ്ങളുടെ പ്രവർത്തനം നടത്തി വരുന്നത്. സംസ്ഥാനത്തെ വനിതാ സഹകരണ സംഘങ്ങളിലെ ഭരണസമിതി അംഗങ്ങൾക്ക് സിറ്റിങ് ഫീസ് പ്രസിഡൻഡറുമാർക്ക് ഹോണറേറിയം എന്നിവ നൽകുന്നതിന് പല സംഘങ്ങളിൽ നിന്ന് ആവശ്യം ഉയർന്നു വന്നിട്ടുണ്ട്. മേൽ സാഹചര്യത്തിൽ വനിതാ സഹകരണ സംഘങ്ങളിലെ ഭരണസമിതി അംഗങ്ങളുടെ ജോലിഭാരം കണക്കിലെടുത്തും ഇത്തരം സംഘങ്ങളുടെ പ്രവർത്തനം കൂടുതൽ കാര്യക്ഷമമാക്കുന്നതിനുമായി പത്തു ലക്ഷത്തിനുമേൽ ഓഹരിമൂലധനമുള്ള വനിതാ സഹകരണ സംഘങ്ങളുടെ പ്രസിഡണ്ടുമാർക്ക് പ്രതിമാസം 750 രൂപ നിരക്കിൽ ബൈലാ വ്യവസ്ഥകൾക്കു വിധേയമായി ഹോണറേറിയവും, ഭരണസമിതി അംഗങ്ങൾക്ക് 50 രൂപ സിറ്റിങ് ഫീസും നൽകുന്നതിന് അനുവദിച്ച് ഉത്തരവാകുന്നു.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ : ജി (1) 51563/2004

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 25: 01–2005

സർക്കുലർ നമ്പർ 01/2005

വിഷയം : **സഹകരണ വകുപ്പ് – സംസ്ഥാനത്തെ വിവിധ സഹകരണ സ്ഥാപനങ്ങളിലെ പ്രസിഡന്റ്, വൈസ് പ്രസിഡന്റ് എന്നിവർക്കുള്ള ഓണറേറിയവും ഭരണസമിതി അംഗങ്ങൾക്കുള്ള ദിന ബത്ത, യാത്രാബത്ത, സിറ്റിങ് ഫീസ് എന്നിവയും പരിഷ്കരിച്ച് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്.**

സൂചന : **1. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 26/04/2000 ലെ 19/2000 നമ്പർ സർക്കുലർ**

2. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 18/03/2003 ലെ 32/2003 നമ്പർ സർക്കുലർ

3. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 18/06/2003 ലെ 33/2003 നമ്പർ സർക്കുലർ

4. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 21/02/2003 ലെ 07/2003 നമ്പർ സർക്കുലർ

5. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 13/07/1995 ലെ 19/1995 നമ്പർ സർക്കുലർ

6. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 16/06/2001 ലെ 24/2001 നമ്പർ സർക്കുലർ

7. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 16/06/2004 ലെ 22/2004 നമ്പർ സർക്കുലർ

8. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 21/12/2002 ലെ സി.എസ്. (1) 41805/02 നമ്പർ ഉത്തരവ്

9. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 16/02/2002 ലെ സി.എസ്. (1) 54280/99 നമ്പർ ഉത്തരവ്

10. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 26/06/2000 ലെ 35/2000 നമ്പർ സർക്കുലർ

സൂചന 1, 2 പ്രകാരം കേരള സംസ്ഥാന സഹകരണ ബാങ്ക്, ജില്ലാ സഹകരണ ബാങ്ക്, സംസ്ഥാനത്തെ സഹകരണ കാർഷിക ഗ്രാമ വിസകന ബാങ്ക് എന്നിവയുടെയും അർബൻ ബാങ്ക്, പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ/ ബാങ്കുകൾ എന്നിവയിലെ പ്രസിഡൻരുമാരുടെയും ഓണറേറിയം, യാത്രാബത്ത, ദിനബത്ത, സിറ്റിങ് ഫീസ് എന്നിവ നിശ്ചയിച്ചുകൊണ്ടും സൂചന 3 പ്രകാരം സംസ്ഥാനത്തെ വിവിധ അപ്പക്സ്, ഫെഡറേഷനുകളുടെയും വൈസ് പ്രസിഡന്റുമാരുടെയും ഓണറേറിയം നിശ്ചയിച്ചുകൊണ്ടും സൂചന 4 പ്രകാരം രജിസ്ട്രാറുടെ ഭരണ നിയന്ത്രണത്തിൽ പ്രവർത്തിക്കുന്ന കേരള സംസ്ഥാന സഹകരണ കൺസ്യൂമർ ഫെഡറേഷൻ, കേരള കേര കർഷക സഹകരണ ഫെഡറേഷൻ, കേരള സംസ്ഥാന സഹകരണ റബ്ബൽ മാർക്കറ്റിംങ് ഫെഡറേഷൻ എന്നീ അപ്പക്സ് സ്ഥാപനങ്ങളുടെയും പ്രസിഡന്റുമാരുടെ ഓണറേറിയം നിശ്ചയിച്ചുകൊണ്ടും, സൂചന 5, 6 പ്രകാരം യഥാക്രമം പ്രാഥമിക ഹൗസിങ് സഹകരണ സംഘങ്ങളിലെ ഭരണസമിതി അംഗങ്ങളുടെ ദിനബത്ത, സിറ്റിങ് ഫീസ്, യാത്രാബത്ത എന്നിവയും പ്രാഥമിക മാർക്കറ്റിങ് സഹകരണ സംഘങ്ങളിലെ പ്രസിഡന്റുമാരുടെ ഓണറേറിയം ഭരണസമിതി അംഗങ്ങളുടെ സിറ്റിങ് ഫീസും പുതുക്കി നിശ്ചയിച്ചുകൊണ്ടും ഉത്തരവ് പുറപ്പെടുവിച്ചിട്ടുള്ളതാണ്. സൂചന 7 പ്രകാരം സംസ്ഥാനത്തെ പ്രാഥമിക വനിതാ സഹകരണ സംഘങ്ങളിലെ പ്രസിഡന്റുമാരുടെ ഓണറേറിയം നിശ്ചയിച്ചു നൽകിയിട്ടുണ്ട്. സൂചന 8, 9 പ്രകാരം സഹകരണ കൺ്സ്യൂമർ ഫെഡറേഷൻ പ്രസഡന്റിന്റെ ഓണറേറിയവും ഭരണസമിതി അംഗങ്ങളുടെ സിറ്റിങ് ഫീസും പുതുക്കി നിശ്ചയിച്ചുകൊണ്ടും, സൂചന (1) അനുസരിച്ച് അർബൻ സഹകരണ ബാങ്കുകളിലെ കമ്മറ്റി അംഗങ്ങളുടെ യാത്രാബത്ത പരിഷ്കരിച്ചും ഉത്തരവായിട്ടുണ്ടായിരുന്നു.

ഇപ്പോൾ നിലവിലുള്ള നിരക്കുകൾ പുതുക്കി നിശ്ചയിക്കണമെന്ന സഹകാരികളുടെ അപേക്ഷ കണക്കിലെടുത്തും ഇനിയും ഓണറേറിയമോ, സിറ്റിങ് ഫീസോ നിശ്ചയിച്ചു നൽകിയിട്ടില്ലാത്ത അപ്പക്സ് ഫെഡറേഷനുകൾ ഉൾപ്പടെയുള്ള ഓണറേറിയം, യാത്രാബത്ത, ദിനബത്ത, സിറ്റിങ് ഫീസ് എന്നിവ നൽകേണ്ടത് ആവശ്യമാണെന്ന് കണ്ടതിനാലും സംസ്ഥാനത്തെ വിവിധ സഹകരണ സ്ഥാപനങ്ങളിലെ പ്രസിഡന്റ്, വൈസ് പ്രസിഡന്റ് എന്നിവർക്കുള്ള പ്രതിമാസ ഓണറേറിയം തുക സഹകരണ ചട്ടം 49 പ്രകാരം നിശ്ചയിച്ച്/പരിഷ്കരിച്ച്കൊണ്ടും സംസ്ഥാനത്തെ വിവിധ സഹകരണ സ്ഥാപനങ്ങളിലെ പ്രസിഡന്റ്, വൈസ് പ്രസിഡന്റ് ഉൾപ്പടെയുള്ള ഭരണസമിതി അംഗങ്ങളുടെ ദിനബത്ത, യാത്രാബത്ത, സിറ്റിങ് ഫീസ് എന്നിവ സഹകരണ

ചട്ടം 48 (5) പ്രകാരം നിശ്ചയിച്ച്/പരിഷ്കരിച്ചുകൊണ്ടും ഉത്തരവാകുന്നു. പരിഷ്കരിച്ച നിരക്കുകൾ ഇതോടൊപ്പമുള്ള പട്ടികയിൽ ചേർത്തിരിക്കുന്നു.

പൊതു വ്യവസ്ഥകൾ

1. പരിഷ്കരിച്ച നിരക്കിന് 01–01–2005 മുതൽ പ്രാബല്യമുണ്ടായിരിക്കും.

2. ഓണറേറിയം കൈപ്പറ്റുന്ന പ്രസിഡന്റ്, വൈസ് പ്രസിഡന്റ് എന്നിവർക്ക് സ്ഥാപനത്തിന്റെ ആസ്ഥാനത്തു നിന്നു നിന്നു 8 കിലോമീറ്റർ വരെയുള്ള യാത്രക്ക് യാത്രാബത്തയ്ക്ക് അർഹതയുണ്ടായിരിക്കുന്നതല്ല.

3. ഭരണസമിതി യോഗത്തിൽ പങ്കെടുക്കുന്ന അംഗങ്ങൾക്ക് യാത്രാബത്തയ്ക്കു പുറമെ സിറ്റിങ് ഫീസിനും അർഹതയുണ്ടായിരിക്കും.

4. വ്യാപാര ആവശ്യത്തിനായി യാത്ര ചെയ്യേണ്ടിവരുന്ന ഭരണസമിതി അംഗങ്ങൾക്ക് യാത്രാബത്തക്ക് പുറമെ ദിനബത്തക്കും അർഹതയുണ്ടായിരിക്കും.

5. സ്ഥാപനത്തിന്റെ വാഹനം ഉപയോഗിക്കുന്നവർക്കും യാത്രാബത്തയ്ക്ക് അർഹതയുണ്ടായിരിക്കുന്നല്ല. ഇവർക്ക് അതാതു സ്ഥാപനങ്ങളിലെ ചീഫ് എക്സിക്യൂട്ടീവ് ആഫീസർക്ക് അനുവദനീയമായ സർക്കാർ നിരക്കിലുള്ള ഇൻസിഡൻഡൽ എക്സ്പെൻസിന് അർഹതയുണ്ടായിരിക്കും (8 കിലോമീറ്ററിന് പുറത്ത് യാത്ര ചെയ്യുന്ന പക്ഷം പ്രസ്തുത തുക ഏറ്റവും കുറഞ്ഞത് പകുതി ദിനബത്തയായിരിക്കും.

6. വാഹനം അനുവദിച്ചിട്ടുള്ള സ്ഥാപനങ്ങളിലെ പ്രസിഡന്റ്/ഭരണസമിതി അംഗങ്ങൾ യാത്രയ്ക്കായി വാഹനം ഉപയോഗിക്കുന്നില്ല എങ്കിൽ അവർക്ക് ഒന്നാം ക്ലാസ്സ്/രണ്ടാം ക്ലാസ്സ് എ.സി. യിലുള്ള ട്രെയിൻ യാത്രാ നിരക്കോ, റോഡ് മാർഗ്ഗമാണ് യാത്ര എങ്കിൽ എക്സ്പ്രസ്സ് /സൂപ്പർഫാസ്റ്റ് ബസ്സ് നിരക്കും, അതാത് സ്ഥാപനങ്ങളിലെ ചീഫ് എക്സിക്യൂട്ടീവ് ആഫീസർക്ക് ട്രെയിൻ/റോഡ് യാത്രക്കും അനുവദനീയമായ ഇൻസിഡന്റൽ എക്സ്പെൻസിനും അർഹതയുണ്ടായിരിക്കും.

7. കേരള സർവ്വീസ് റൂൾസിൽ വ്യവസ്ഥയ്ക്കനുസൃതമായി ഭരണസമിതി അംഗങ്ങൾക്ക് അതാത് സ്ഥാപനങ്ങളിലെ ചീഫ് എക്സിക്യൂട്ടീവ് ആഫീസർമാർക്ക്, അനുവദനീയമായ നിരക്കിലുള്ള ഹാൾട്ട് ഡി.എ. യ്ക്ക് അർഹതയുണ്ടായിരിക്കും.

8. സംസ്ഥാനത്തിന് പുറത്ത് യാത്ര ചെയ്യുന്നവർക്ക് ദിനബത്ത സാധാരണ നിരക്കിലും 50% അധികമായിരിക്കും കൂടാതെ മുറിവാടക ഇനത്തിൽ അതാത് സ്ഥാപനങ്ങളിലെ ചീഫ് എക്സിക്യൂട്ടീവ് ആഫീസർക്ക് അനുവദനീയമായ സർക്കാർ നിരക്കിലുള്ള തുകയ്ക്കും അർഹതയുണ്ട്.

9. ഈ ഉത്തരവ് പ്രകാരം ഓണറേറിയം, യാത്രാബത്ത, ദിനബത്ത, സിറ്റിങ് ഫീസ് എന്നിവ അനുവദനീയമല്ലാത്ത വിഭാഗങ്ങളിൽപ്പെടുന്ന സംഘങ്ങൾക്ക് അപേക്ഷിക്കുന്ന മുറയ്ക്ക് സ്ഥാപനങ്ങളുടെ സാമ്പത്തിക സ്ഥിതി പരിഗണിച്ച് രജിസ്ട്രാർ പ്രത്യേക ഉത്തരവ് നൽകുന്നതാണ്. എന്നാൽ ഈ വിഭാഗങ്ങളിൽപ്പെടുന്ന സംഘങ്ങളുടെ ആവശ്യത്തിനായി ഏതെങ്കിലും കാരണവശ്ശാൽ ഭരണസമിതി അംഗങ്ങൾക്ക് യാത്ര ചെയ്യേണ്ടി വരുന്ന പക്ഷം അവർക്ക് യഥാർത്ഥ ബസ്സ് യാത്രാ നിരക്ക് വാങ്ങാവുന്നതാണ്.

10. ഈ ഉത്തരവിന്റെ പ്രാബല്യ തീയതി മുതൽ സൂചന (7) പ്രകാരമുള്ള രജിസ്ട്രാറുടെ സർക്കുലർ റദ്ദ് ചെയ്യപ്പെടുന്നതാണ്.

കെ. കേശവൻ

സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

പട്ടിക

ക്രമനമ്പർ	സ്ഥാപനത്തിന്റെ പേര്	പ്രസിഡന്റു മാർക്കുള്ള ഓണറേറിയം		വൈസ് പ്രസിഡന്റു മാർക്കുള്ള ഓണറേറിയം		ദിനബത്ത (ഡി.ഏ)		യാത്രാ ബത്ത (കിലോ മീറ്ററിന്)		സിറ്റിംഗ് ഫീസ് (ഒരു ദിവസത്തേക്ക്)	
		നിലവിലുള്ളത് രൂപ	പരിഷ്കരിച്ചത് രൂപ	നിലവിലുള്ളത് രൂപ	പരിഷ്കരിച്ചത് രൂപ	നിലവിലുള്ളത് രൂപ	പരിഷ്കരിച്ചത് രൂപ	നിലവിലുള്ളത് രൂപ/പൈസ	പരിഷ്കരിച്ചത് രൂപ / സ	നിലവിലുള്ളത് രൂപ	പരിഷ്കരിച്ചത് രൂപ
1	2	3	4	5	6	7	8	9	10	11	12
1	കേരള സംസ്ഥാന സഹകരണ ബാങ്ക് ക്ലിപ്തം	5000	6000	2000	3000	150	200	2.50	3.00	200	300
2	കേരള സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്ക് ക്ലിപ്തം	5000	6000	2000	3000	150	200	2.50	3.00	200	300
3	കേരള സംസ്ഥാന സഹകരണ കൺസ്യൂമേഴ്സ് ഫെഡറേഷൻ ക്ലിപ്തം	4000	5000	2000	3000	125	150	2.50	3.00	200	250
4	കേരള സംസ്ഥാന സഹകരണ മാർക്കറ്റിംഗ് ഫെഡറേഷൻ ക്ലിപ്തം	4000	5000	2000	3000	125	150	2.50	3.00	150	250
5	കേരള സംസ്ഥാന സഹകരണ റബ്ബർ മാർക്കറ്റിംഗ് ഫെഡറേഷൻ ക്ലിപ്തം	4000	5000	2000	3000	125	150	2.50	3.00	150	250
6	കേരള കേര കർഷക സഹകരണ ഫെഡറേഷൻ ക്ലിപ്തം	4000	5000	2000	3000	125	150	2.50	3.00	200	250
7	കേരള സംസ്ഥാന സഹകരണ ഹൗസിംഗ് ഫെഡറേഷൻ ക്ലിപ്തം	4000	5000	2000	3000	125	150	2.50	3.00	150	200
8	കേരള സംസ്ഥാന പട്ടികജാതി / പട്ടികവർഗ്ഗ വികസന സഹകരണ ഫെഡറേഷൻ ക്ലിപ്തം	3000	4000	നിലവിലില്ല	2000	നിലവിലില്ല	150	2.50	3.00	175	200
9	കേരള സഹകരണ ഹോസ്പിറ്റൽ ഫെഡറേഷൻ ക്ലിപ്തം	നിലവിലില്ല	2000	നിലവിലില്ല	.....	125	150	2.50	3.00	നിലവിലില്ല	150
10	കേരള വനിതാ സഹകരണ ഫെഡറേഷൻ	നിലവിലില്ല	3000	നിലവിലില്ല	1500	നിലവിലില്ല	150	2.50	3.00	നിലവിലില്ല	150
11	ജില്ലാ സഹകരണ ബാങ്കുകൾ	4000	5000	2000	3000	150	150	2.50	3.00	175	250
12	പ്രാഥമിക സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്കുകൾ	2500	3500			125	150	1.50	2.50	150	200
13	അർബൺ സഹകരണ ബാങ്കുകൾ – സ്പെഷ്യൽ ഗ്രേഡ്	2500	3500			125	150	0.80	2.00	125	150
	ക്ലാസ്സ് I	2000	3000			100	130	@ അടിക്കുറിപ്പ് കാണുക	1.75	125	150
	ചട്ടങ്ങളിലെ അനുബന്ധം III പ്രകാരമുള്ളത് ക്ലാസ്സ് II	1500	2500			90	120		1.75	100	130
	ക്ലാസ്സ് III	1300	2300			80	110		1.50	90	120
	ക്ലാസ്സ് IV	1200	2200			70	100		1.50	80	110
	ക്ലാസ്സ് V	1000	2000			70	100		1.50	70	100

14	പ്രാഥമിക വായ്പാ സംഘങ്ങൾ (കാർഷിക കാർഷികേതര, അർബൺ സംഘങ്ങൾ / കോംപോസിറ്റ് വായ്പാ സംഘങ്ങൾ ഉൾപ്പെടെയും ഹൗസിംഗ് സംഘങ്ങൾ ഒഴികേയും) (ചട്ടങ്ങളിലെ അനുബന്ധം III പ്രകാരമുള്ളത്)										
	സ്പെഷ്യൽ ഗ്രേഡ്	2500	3500			125	150	0.80	2.00	125	150
	ക്ലാസ്സ് I	2000	3000			100	130	0.70	1.75	125	150
	ക്ലാസ്സ് II	1500	2500			90	120	0.70	1.75	100	130
	ക്ലാസ്സ് III	1300	2300			80	110	0.70	1.50	90	120
	ക്ലാസ്സ് IV	1200	2000			70	100	0.70	1.50	80	110
	ക്ലാസ്സ് V	1000	1750			60	100	0.70	1.50	70	100
	ക്ലാസ്സ് VI (പ്രവർത്തന മൂലധനം 10 ലക്ഷം രൂപയിൽ കുറയാതെ ഉള്ളവയ്ക്ക്)	800	1500			60	100	0.70	1.50	70	100
15	പ്രാഥമിക ഹൗസിംഗ് സഹകരണ സംഘങ്ങൾ (ചട്ടങ്ങളിലെ അനുബന്ധം III പ്രകാരമുള്ളത്)										
	ക്ലാസ്സ് I	നിലവിലില്ല	1500			40	100	@@ അടിക്കുറിപ്പ് കാണുക	1.50	@@@ അടിക്കുറിപ്പ് കാണുക	125
	ക്ലാസ്സ് II	നിലവിലില്ല	1000			.....	90		1.50		100
	ക്ലാസ്സ് III	.....	750			.....	80		1.50		90
16	പ്രൈമറി മാർക്കറ്റിംഗ് & പ്രോസസ്സിംഗ് സഹകരണ സംഘങ്ങൾ (ചട്ടങ്ങളിലെ അനുബന്ധം III പ്രകാരമുള്ളത്)										
	ക്ലാസ്സ് I	1250	2000			നിലവിലില്ല	75	നിലവിലില്ല	0.70	125	150
	ക്ലാസ്സ് II	നിലവിലില്ല	1000			നിലവിലില്ല	75	നിലവിലില്ല	0.70	100	130
	ക്ലാസ്സ് III	നിലവിലില്ല	750			നിലവിലില്ല	75	നിലവിലില്ല	0.70	90	120
	ക്ലാസ്സ് IV (വാർഷിക വിറ്റുവരവ് 10 ലക്ഷം രൂപയ്ക്കു മുകളിലുള്ളവ മാത്രം)	നിലവിലില്ല	500			നിലവിലില്ല	75	നിലവിലില്ല	0.70	70	100
17	ജില്ലാ മൊത്ത വ്യാപാര സഹകരണ സംഘങ്ങൾ	നിലവിലില്ല	2000	ഇല്ല	ഇല്ല	100	125	0.70	1.00	100	125
18	വനിതാ സഹകരണ സംഘങ്ങൾ (10 ലക്ഷത്തിനു മുകളിൽ പ്രവർത്തന മൂലധനമുള്ള സംഘങ്ങൾക്ക് മാത്രം)	750	1000	.....	.....	നിലവിലില്ല	100	നിലവിലില്ല	1.00	50	100
19	കേരള സ്റ്റേറ്റ് കോ-ഓപ്പറേറ്റീവ് ഹോസ്പിറ്റൽ കോംപ്ലക്സ് & സെന്റർ ഫോർ അഡ്വാൻസ്ഡ് മെഡിക്കൽ സർവ്വീസസ് ക്ലിപ്തം, പരിയാരം, കണ്ണൂർ	നിലവിലില്ല	5000	നിലവിലില്ല	3000	നിലവിലില്ല	200	നിലവിലില്ല	3.00	നിലവിലില്ല	250
20	ഹോസ്പിറ്റൽ സഹകരണ സംഘങ്ങൾ										
1	ജില്ലാ ഹോസ്പിറ്റൽ സഹകരണ സംഘങ്ങൾ	നിലവിലില്ല	2500	.....	.....	നിലവിലില്ല	150	നിലവിലില്ല	2.00	നിലവിലില്ല	150
2	സ്പെഷ്യൽ ഗ്രേഡ്	നിലവിലില്ല	2000	നിലവിലില്ല	.....	നിലവിലില്ല	125	നിലവിലില്ല	1.50	നിലവിലില്ല	125
3	ക്ലാസ്സ് I	നിലവിലില്ല	1500	നിലവിലില്ല	.....	നിലവിലില്ല	100	നിലവിലില്ല	1.50	നിലവിലില്ല	100

സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

@ 2 കോടി രൂപക്കു മുകളിൽ പ്രവർത്തന മൂലധനം ഉള്ളവയ്ക്ക് 1.50 രൂപയും 2 കോടി രൂപക്കു താഴെ പ്രവർത്തന മൂലധനം ഉള്ളവയ്ക്ക് 1.00 രൂപയും

@@ ഫസ്റ്റ് ക്ലാസ്സ് ട്രെയിൻ യാത്രാ നിരക്ക് അഥവാ റോഡ് യാത്രക്ക് സ്പെഷ്യൽ കൺവേയൻസ് 1 രൂപ കി. മീറ്ററിന്

@@@ 1 കോടി രൂപക്കു മുകളിലുള്ള വായ്പ ബാക്കിനിൽപിലുള്ള സംഘങ്ങൾക്ക് 75 രൂപ, 1 കോടി രൂപ വരെ വായ്പ ബാക്കിനിൽപുള്ള സംഘങ്ങൾ 50 രൂപ

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ACT

CHAPTER V
PRIVILEGES OF CO-OPERATIVE SOCIETIES

S35. First charge of society on certain assets:- (1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a society by any member or past member or deceased member shall be a first charge-

(a) upon the crops or other agricultural produce of such member for the raising of which the loan was taken from the Society by such member; and

(b) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, supplied or purchased in whole or in part out of any loan given, by the society, or on any article manufactured from raw materials so supplied or purchased.

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.

(4) The charge created under sub-section (1) shall be available as against any claim of the Government arising from any loan granted by them after the grant of the loan by the society.

S36. Charge on land owned or held by members borrowing loans from certain Societies :- Notwithstanding anything contained in this Act or any other law for the time being in force

(i) a member who makes an application for a loan to a society of which the majority of the members are agriculturists shall, if he owns any land or holds any land as a tenant entitled to fixity of tenure, make a declaration in the prescribed form which shall state that the applicant thereby creates a charge on the land owned by him or on his interest in the land held by him as tenant and specified therein, for the payment of the amount of the loan which the society may make to the member on the application and future loans if any, that may be made to him, from time to time, by the society together with interest on such loan or loans:

(ii) a declaration made under clause (i) may be varied or cancelled at any time by the member, with the previous written permission of the society in favour of which such charge has been created;

(iii) no member shall alienate the whole or any part of the land or his interest in the land specified in the declaration made under clause (i) or varied under clause (ii) until the whole amount borrowed by the member together with interest thereon is paid to the society in full:

Provided that standing crops on any such land may be alienated with the previous permission in writing of the society.

Provided further that it shall be lawful to a member to mortgage such land or any part thereof in favour of the Government or a Land Mortgage Bank.

Provided also that if a part of the amount borrowed by a member is paid the society with the approval of the financing bank to which it may be indebted may, on an application from the member, release from the charge created by the declaration made under clause (i) or varied under clause (ii) such a part of the land or of the interest in land specified in the declaration as it may deem proper, with due regard to the security of the balance of the amount of loan outstanding from the member.

(iv) any alienation made in contravention of clause (iii) shall be null and void;

(v) subject to the claims of the Government in respect of basic tax or any money recoverable as land revenue and to the claims of the Government or the Land Mortgage Bank in respect of any money payable under a mortgage in favour of the Government or the Land Mortgage bank and to the prior claims of any person in whose favour alienation of the land or interest in land specified in the declaration made under clause (i) or varied under clause (ii) has been effected and duly registered, before the date of the grant of the loan by the society, there shall be a first charge in favour of the society on such land or interest for and to the extent of the dues owing by him on account of the loan;

(vi) a declaration made under clause (i) or any variation or cancellation thereof under clause (ii) or any release under the third proviso to clause (iii) shall be sent by the society, by registered post, to the Sub Registrar having jurisdiction over the area in which the land is situated, and the Sub-Registrar shall register such declaration or variation or cancellation or release and issue a copy thereof to the society;

(vii) any declaration made under clause (i) or any variation or cancellation thereof under clause (ii) or any release under the third proviso to clause (iii), which has not been registered under clause (vi), shall be null and void.

Explanation :- In this section :-

(a) "basic tax" means the tax imposed under the provisions of the Kerala Land Tax Act, 1961 (13 of 1961);

(b) "Land Mortgage Bank" means the Kerala Co-operative Centre Land Mortgage Bank Ltd, or a primary mortgage bank as defined in the *Kerala Co-operative Land Mortgage Banks Act, 1960 (1 of 1960).

---

* This act has been repealed by The Kerala State Co-operative (Agricultural and Rural Development Banks) Act, 1984. The concerned sections of the new Act 2 (a) and 2 (h).

CASE LAWS

The sale officer can proceed with the sale of other properties of the defaulter first, without proceeding against the properties mortgaged for realising the amount covered in the arbitration award.

1995 (2) KLT 632 = 1995 (2) KLJ 503 Rosa Chacko v/s Kalloorkad Farmers Co-operative Bank

Registration of declaration forms creating charge on land for loan - Society sending the documents by registered post to Sub Registrar for registration. Sub Registrar insisting that the party should appear in person - Section 36 (vi) of the Act, Perhaps, exempts a co-operative society from the obligation of presenting the document in person. This does not mean that Section 36 (vi) of the Act exempts the person from the other obligation under the Indian Registration Act. Rule 29 (iii) of the Registration Rules is a rule made by the State of Kerala. This rule and Section 36 (vi) of the Act have to be read together. Section 36 (vi) should be read as an exemption to Rule 29 (iii) of the Kerala Registration Rules. Even then all other formalities in the Indian Registration Act are to be complied with. The first respondent is therefore justified in refusing to register the document.

1978 KLT 640 K.V.C.K.K. Co-operative Society v/s Sub Registrar

RULES

R51. Charge on land owned or held by members borrowing loans from certain societies:- (1) A declaration to be made under clause (1) of Section 36 shall be in Form No. 7.

(2) A register of such declaration shall be kept by the society in Form No. 8.

FORM No.7
(See rule 51)

[Form of declaration to be made under clause (i) of Section 36 of the Kerala Co-operative Societies Act, 1969, creating a charge upon the land or other immovable property owned by a member of a Co-operative Society of which the majority of the members are agriculturists in respect of any loan which such society may make to the member]

Know all men by these presents that I/We son/sons of ....aged about .....residing at ..... (hereinafter called the borrower/borrowers which expression shall, where the context so permits, include his/their heirs, successors, executors, legal representatives, administrators, and assigns) having been admitted to the membership ....society .....with limited/unlimited liability (hereinafter called

the society) and being desirous of borrowing loan from the society do hereby declare and create a charge over the property more fully described in the Schedule hereto (hereinafter called the charged property) in favour of the society as required by section 36 of the Kerala Co-operative Societies Act, 1969, for due repayment of the loan which the society may make and for all future advances which the society may make to me/us subject to the maximum amount of Rs ..... (Rupees .....only) together with the interest on such amount of the loan and advances.

The said borrower does/borrowers do hereby declare that he has/they have good title to the charged property holds/hold the property as a tenant entitled to fixity of tenure and further covenant and undertake to make good any loss or damage that any be occasioned by reason of either defect in title or interests or otherwise.

The said borrower/borrowers further declares/declare that there are no encumbrances on the charged property other than the charge hereby created; and

The said borrower does/borrowers do hereby undertake not to transfer the said property or to this interest in the said property by way of sale, mortgage gift or otherwise until the entire amount of the loan or loans taken by the borrower/borrowers from the society together with interest therein is paid to the society.

The said borrower does/borrowers do hereby further agree and declare that this deed is subject to and shall be deemed to include all the conditions under section 36 of Kerala Co-operative Societies Act, 1969.

Now the condition of the above written charge is such that if the borrower duly pays/borrowers duly pay the entire amount due from him/them and also conforms/conform to the provisions of the Act and rules and bye laws of the society then the above written charge shall become ineffective, otherwise it shall remain in full force and virtue.

THE SCHEDULE

Village	:
Taluk	:
District	:
Survey Number	:
Boundaries	:
Extent	:

IN WITNESS WHEREOF I /We .....
.....have set my hand/our hands in the presence of Witnesses:-

1.
2.

(Signed)

Forwarded to the Sub Registrar of.....(having jurisdiction over the area in which the land or other property is situated) with a request to registrar the particulars of the charge ..... created under the declaration in the Registration Record and to return the declaration to the Society after its registration.

President
.....Society

Returned to the President .....Society, limited/ unlimited. The charge created under the declaration is duly registered in the registration Record on the .....day of..... 19

Sub-Registrar

FORM No.8

[See Rule 51 (2)]

Register of Declaration made under Section 36

Sl. No.	Date of entry in the register	Name of the member	Date of declaration	Name of the village in which the land is situated	Sy. No.
(1)	(2)	(3)	(4)	(5)	(6)

Area		Assessment		Approximate value	Encumbrance if any	
Hectare	Acres	Rs.	Ps.		Nature	Amount
(7)	(8)	(9)		(10)	(11)	(12)

Amount of maximum loan	Remarks, if any	Initial of the Secretary
(13)	(14)	(15)

ACT

[*S36A Charge on movableor immovable property o borrower by creating Gehan :- Notwithstading anything contained in any, other provisions of this Act, charge on movable or immovable property of a borrower in favour of the S tate Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or a Primary Housing Society may be created by Gehan in respect to which the provisions of sections 10 to 15 (both inclusive) of the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984), as amended from time to time, shall apply with the modification of substituting the words *"State Co-operative Bank or District Co-operative Banks", " primary Agricultural Credit Society or Primary Housing Society", "Society"* and *"saidBank or Society"*, respectively, for the words " *Agricultural and Rural Development Bank", "primary bank," "bank"* and *"said banks"* occuring in the said sections.

Explanation:- For the purpose of this section,Gehan means a special charge on movable or immovable property, in favour of the State Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or a Primary Housing Society by a mere decleration in writing by the borrower, for securing the payment of money advanced or to be advanced by way of loan , which will have all the characteristics of a valid mortgage.]

RULES

[**R51A. Procedure for Creation of Gehan:- (1) A declaration creating a Gehan shall be in Form No.8A

(2)The State Co-operative Bank, District Co-operative Bank Primary Agricultual Credit Society/Bank and the Primary Housing Society, shall maintain a register of such decleration in Form No. 8B in the case of immovable property and in Form No.8C in the case movable property.

(3)A copy of declaration or instrument whereby the Gehan is created or the mortgage or hypothecation is executed in favour of the Kerala State Co-operative Bank, District Co-operative Bank, Primary Agricultural Credit Society/ Bank or the Primary Housing Co-operative Society shall b forwarded by the concerned bank or society, either through a person or by registered post with acknowledgement due, within a maximum period of thirty days from the date of its creation of execution, to the registering officer within the local limite of whose jurisaiction the whole or any part of the property to which the Gehan or mortgage or hypothecation relates is situated.

(4)The loan may be sanctioned on the basis od declaration referred to in sub-section (1) of section 11 of the Kerala Co-operative Agricultural and Rural

* Inserted by Act 16 of 2004

** Inserted by SRO 1241/2004

Development Bank Act,1984 (20 of 1984) as appicable under section 36A of the Act and the declaration shall be in Form No.8D.

(5)The notice referred to in sub-section (2) of section 12 of the Kerala State Co-operative Agricultural and Rural Development Banks Act,1984 (20 of 1984), as applicable under section 36A of the Act shall mutatis mutandis be in Form No.8E and such notice shall be published in the Head Office of the Bank/Society and in the Branch office of the bank or society and in the Village Office cocerned.]

FORM No. 8A

(See Rule 51A)

Form for Creating Gehan/Mortgage/Hypothecation

(Triplicate of which one in copying sheet)

Form of declaration to be made under section 36A of the Kerala Co-operative Socities Act 1969 (21 of 1969) creating a Gehan upon immovable property owned by a member of the Kerala State Co-operative Bank, District Co-operative Society in respect of any loan which such bank society may make to the member.

Know all men by these present that I/We Son/sons/ Daughters/s of.....aged about.....residing at..... and having permanent adress as.....(hereinafter called the borrower/borrowers which experssion shall where the context so permits, include this/their,heirs,successos,executors, legal representatives, administrators a nd assignst having) been adm itted to the membership of.....Bank/Society with limited liability(herein after called the BankSociety)and being desirous of borrowing from the Bank/Society do hereby declare and creat a Gehan over the property both movable and immovable more fully described in the Schedule hereto (hereinafter Called theGehan property) in favour of the Bank/Society as required by Sections 10 of the KeralaCo-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984) as applicable under Section 36A of the Kerale Co-operative Society Act, 1969 (21 of 1969) for due repayment of the loan which the Bank/Society makes and for all future advances which the Bank/ Society on terms and conditions in the loan of sanctioning order may make to me/us subject to the maximum amount of Rs.....(Rupees.....only) together with the interest on such amount of the loans and advances.

The said borrower does dec lare/borrowers do further declare that there are no encumbrances on the Gehan property other than the charge hereby created; and

The said borrower/ borrowers does/do hereby undertake not to transfer the said property or any interest in the said property by way of sale, mortgage,gift or otherwise part with possession until the entire amount of the loan or loans taken by the borrower/borrowers from the Bank/Society together with interest thereon is fully paid to the Bank/Society.

The said borrower does/ borrowers do hereby further agree and declare that this deed is subject to and shall be deemed to include all the conditions under section 10 of Kerala Co-operative Agricultural and Rural Development Bank Act,1984 (20 of 1984) as

applicable under Sections 36A of the Kerala Co-operative Societies Act,1969 (21 of 1969).

Now the condition of the above written Gehan is such that if the borrower duly pays /borrowes duly pay the entire amount due from him/them and also conforms/conform to the provisions of the Act,and Rules and the bye-laws of the bank/society then the abo ve written Gehan shall become ineffective otherwise it shall remain by full force and virtue.

THE SCHEDULE

Description of Property

A.Immovable

Village	:
Panchayat	:
Firka	:
Taluk	:
District	:
Sub-District (Sub Registry)	:
Survey Number	:
Re-survey Number	:
Right of the Mortgagor/Gehan creator	:
Name of the Property	:
Boundaries	:

B.Movable

Description of Movables,	
Machinery and other assets.	:
Year,make No., type,etc.	:

In witness whereby I/We.....have set my hand/our hands in the presence of the following witnesses:

(1)

(2)

Signed

Accepted

(Fowarded to the Sub-Registrar of.....(having jurisdiction over the aera in which the land or other property is situated) with a request to file the Gehan (here enter Details) created under the declaration in Book No.1 refered to the Registration Act,1908(Central Act 16 of 1908) and return the declaration to the Bank/ Society after filling.

Returned to the Managing Derector/General Manager/Secretary/Branch Manager.....Bank/Society Limited. The Gehan created under the declaration in duly filed in Book No.1 referred to in section 51 of the Registration Act,1908 (Central Act 16 of 1908) on this the.....day of 20....

Sub Registrar

FORM No.8B

(See Rule 51A)

Register of Declaration made under Section 36A of the Kerala Co-operative Societies Act, 1969 (21 of 1969)

(Immovable Properties)

Sl.No.	Date of entry In the Register	Name of the Member Loanee	Date of Declaration	Name of the Village in which land is situated
(1)	(2)	(3)	(4)	(5)

Sl. No.	Area (Hectares)	Name of right of Loanee	Tax Assessment		Encumbrance, if any	
			Area	Rs. Ps.	Name	Amount
(6)	(7)	(8)	(9)	(10)	(11)	(12)

FORM No.8C

(See Rule 51A)

Register of Declaration made under Section 36A of the Kerala Co-operative Societies Act, 1969 (21 of 1969)

(Immovable Properties)

Sl. No.	Date of entry In the Register	Name of the Member Loanee	Date of Declaration	Description of the property	Description of the machinery
(1)	(2)	(3)	(4)	(5)	(6)

Description of other products	Year of make	Year of Purchase	Brand	Type	Other specifications, if any
(7)	(8)	(9)	(10)	(11)	(12)

Amount of maximum loan			Remarks, if any	Initials of the Secretary
Permissible	Sanctioned	Disbursed		
(13)	(14)	(15)	(16)	(17)

FORM No.8D

[See Rule 51A(4)]

Form of Declaration to be made by an applicant for loan, under Section 36A of the Kerala Co-operative Societies Act, 1969 (21 of 1969)

Declaration made by (Name & address) .... (application in letter No. ..... on the ..... day of ..... month of ..... year before Shri. ....Managing Director / General Manager / Secretary / Branch Manager of the Kerala State Co-operative Bank / District Co-operative Bank / Primary Agricultural Credit Society / Bank, Housing Co-operative Society;

I / We hereby declare that the movable/ Immovable property on which I / We have created Gehan / Mortgage / Hypothecation in favour of the Bank / Society as security for the loan is / are free from encumbrance and that I / We own and actually possess the land / movable propertyscheduled hereunder and that I /We have absolute right to create the Gehan / Mortgage / Hypothecation thereon, and that the above facts are true to the best of my / our knowledge, information and belief.

THE SCHEDULE

Description of property

(a) Immovable property:

District	Taluk / Sub District			Extent	
	Village	Survey No.	RS	A.C.	Boundary

(b) Movable

Description of movables, machinery and other assets, year, make number, type, etc.

I / We further declare that I / We have convinced the Bank the fact that the above statements are true to the best of my / our knowledge, information and belief and I / We affix my / our signature in the presence of the following witnesses.

Name of applicant and signature :

Name and signature of witnesses :

(1)

(2)

FORM No. 8E
[See Rule 51A (5)]

(Notice to all concerned having interest in the hypothecation)

NOTICE

Notice is hereby given that .... has / have created a Gehan / executed a mortgage / hypothecation in favour of the Kerala State Co-operative Bank / District Co-operative Bank / Primary Agricultural Credit Society / Bank, Primary Housing Co-operative Society on the date of ..... Any person or persons claiming any interest on the said property or any part thereof by way of any attachment or equitable mortgage or otherwise is hereby required to communicate the same to the undersigned at his office at ..... etc., within 30 days from the date hereof or otherwise the said Gehan / Mortgage / Hypothecation shall take precedence without any reference or regard to any such attachment or equitable mortgage which shall be deemed to have been waived to all interests or purposes.

The description of property.

Secretary

Date For and on behalf of .....

ACT

S37. Deduction from salary to meet society's claim in certain cases :- (1) Notwithstanding anything contained in any law for the time being in force, a member of a society, may execute an agreement in favour of the society providing that his employer or the officer disbursing his salary or wages shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the Society.

(2) On the execution of such an agreement, the employer or the officer disbursing the salary or wages of any such member as is referred to in sub-section (1) shall, if so required by the society by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amounts so deducted to the society within seven days from the date of the deduction.

RULES

R52. Deduction from salary or wages:- (1) On the execution of an agreement under sub-section (1) of section 37, the society may send intimation by registered post/local delivery of the execution of the agreement to the employer or the officer disbursing the salary or wages of the member who has executed the agreement and furnish the said employer or officer with a copy of such agreement certified in the manner specified in Rule 32 The employer or the officer disbursing the salary or wages shall on receipt of such intimation from the society make a note of the agreement in the register maintained by him for the disbursement of salary or wages.

(2) In respect of every member who has executed the said agreement and in respect of whom intimation has been sent under sub-rule (1), the society may send to the employer or the officer disbursing the salary or wages of the member, a requisition every month for the recovery from the salary or wages of such member of the amount payable by the member to the society for the month and for the remittance of such amount to the society. Such requisition shall be in Form No. 9 and shall specify the total amount to be recovered from the salary or wages of the member for the month and shall be sent at least seven clear days prior to the last working day of the month.

(3) A member who has executed such an agreement shall, on every occasion he becomes subject to a new pay disbursing authority whether by reason of change of office or place of employment or otherwise, within a week of his becoming so subject, give intimation of the same to the society. The society shall within a fortnight of the receipt of such intimation send the requisition by registered post of the execution of the agreement to such pay disbursing authority and furnish the said authority with a copy of such agreement certified in the manner specified in Rule 32. The employer or the officer concerned shall, on receipt of such requisition from the society, make a note of the agreement in the register maintained by him for the disbursement of salary or wages.

(4) Any amount recovered by an employer or officer disbursing salary or wages from an employee by deduction from his salary or wages in pursuance of a requisition received from any society or societies as the case may be, shall be remitted by such employer or officer as the case may be to the society or societies concerned within the period specified in sub-section (2) of Section 37.

(5) The costs of remittance to the society or societies of the deduction made shall be borne by the society or societies concerned. The employer or the officer disbursing the salary or wages shall furnish to the society or societies, as the case may be, along with the remittance a statement of recoveries effected from the members and the cost of remittance of the money to the society or societies in Form No.10.

(6) Where an amount deducted by the employer or the officer disbursing the salary or wages of the member of a society under sub-section (2) of Section 37 is remitted by such employer or officer to a society, the society, shall promptly issue to such employer or officer a receipt for the amount so remitted; and the receipt given by the society for such amount shall constitute a good and sufficient discharge of the liability of such employer or officer in respect of any claims by such member against such employer or officer.

(7) Any amount realised by a society from a member by deduction shall be given credit by the society to the account of such member with effect from the date on which the amount was deducted by the employer or the officer disbursing the salary or wages irrespective of the date on which the amount was actually received by such society. On the appropriation of the amount in the account of the society, the particulars of credit for the amount realised shall forthwith be furnished to the member by the society.

(8) The employer or the officer disbursing the salary or wages shall maintain a register showing the recovery and remittance of moneys due to societies in From No.11.

FORM No. 9
[See Sub Rule (2) of rule 52]

Form of requisition under sub-section (2) of section 37 of Kerala Co-operative Societies Act, 1969, from a society to an employer or officer disbursing the salary or wages of a member of such society for the deducting of amount due to it form the salary or wages payable to such member.

To

The

(The employer or the officer disbursing the salary or wages)

Sir,

With reference to the agreement executed by the following members of our society authorising you to deduct from their salary/wages the amounts due from them to the society, we request you to be good enough to recover from their salary/wages for the month of .... 19..... the following amounts due from them to the society. We request that the amount so recovered may be remitted to our society at the earliest.

(Mode of remittance)

2. Particulars of the amounts to be recovered from them are given below:-

		Loans due			
Sl. No. & Names of members	Share Capital Payable	Principal	Interest	Penal	Interest
(1)	(2)	(3)	(4)		(5)

Deposits payable				
Amount	Penalty if any	Other items (details)	Total	Remarks
(1)	(2)	(3)	(4)	(5)

For the Co-operative Society
President/Secretary

FORM No. 10

[See sub-rule (5) of rule 52]

Form of remittance under sub section (2) of Section 37 of the Kerala Co-operative Societies Act, 1969, of recoveries effected from the members on account of the dues to a Co-operative Society.

To

The President/Secretary.
.....Co-operative Society

Sir,

With reference to your requisition dated the ..... for the recovery of amounts due to your society for the month ..... 19 .... I remit herewith Rs.....Rupees ..... (in words).

Details of the amount recovered are furnished below-

Amount recovered

Name of the member	Rs. Ps.	Date of recovery
Total		
Less cost of remittance if any	:	
Net amount remitted	:	

Please acknowledge receipt

Yours faithfully,

Employer or Officer disbursing salary or wages

FORM No.11
[See sub-rule (8) of Rule 52]

Form of register showing the recovery and remittance of moneys due to Co-operative Societies

Name of the Co-operative Societies	Date of receipt of demand from the society	Name of the employee from whom dues have to be recovered	Demand	Date of recovery
(1)	(2)	(3)	(4)	(5)

Amount recovered	Date of remittance	Amount remitted	Chalan No. and date of remittance or signature of the authorised representative of the society	No. and date of official printed receipt of the society
(6)	(7)	(8)	(9)	(10)

Remarks (here enter the reasons for the difference, if any, between the amounts in Columns (4) and (6))	Initial of the officer disbursing the salary or wages
(11)	(12)

ACT

S38 Charges and set off in respect of shares or interest of members in the capital of a society:- A society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member or deceased member and on any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt or outstanding demand owing to the society and may set-off any sum credited or payable to a member, past member or the estate of a deceased member in or towards payment of any such debt or outstanding demand:

Provided that no financing bank to which a society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society, or be entitled to set off any such sum credited or payable to the society towards any debt due from such society.

S39. Shares or interest or reserve fund not liable to attachment :- (1) Subject to the provisions of section 38, the share or interest of a member in the capital of a society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by him and a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.

(2) The reserve fund of a society invested by such society in accordance with the provisions of section 57 shall not be liable to attachment under any decree or order of a court in respect of any debt or liability incurred by the society.

S40. Exemption from certain taxes, fees and duties :- (1) The Government may, by notification in the Gazette, remit in respect of any class of societies.-

(a) the stamp duty chargeable under the Kerala Stamp Act, 1959 (17 of 1959), in respect of any instrument executed by or on behalf of a society or by an officer or member thereof and relating to the business of such Society, or any class of such instruments, or in respect of any award or order made under the Act, in cases where, but for such remission the society, officer or member, as the case may be, would be liable to pay such stamp duty;

(b) any fee payable under any law for the time being in force relating to the registration documents or court fees.

(2) The Government may, by notification in the Gazette, exempt any class of societies from taxes on-

(a) agricultural income;

(b) sale or purchase of goods; and

(c) professions, trades, callings, and employments.

NOTES

Notifications in regard to this head are reproduced along with the abstract of other laws and circulars at the end of this chapter.

S41. Exemption from compulsory registration of instruments :- Nothing in clause (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (Central Act 16 of 1908) or sections 54 and 59 of the Transfer of Property Act, 1882 (Central Act 4 of 1882), shall apply to-

(a) any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immovable property; or

(b) any debentures issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder to the security afforded by a

registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(c) any endorsement upon or transfer of any debenture issued by any such society.

CASE LAWS

The cases under this head are subdivided into the following.

1. Deduction from salary
2. Gehan
3. Charge on the land
4. Registration
5. Set off

DEDUCTION FROM SALARY

Recovery from salary Co-operative Societies Act, 1969 (Kerala) - Section 37 - A Government servant cannot resist recovery from his salary made at the request of a Co-operative Society on the ground that he is not a member of the society - Financial Code, Article 89 (3)

2005 (1) KLT 625 Godwin v/s Kollam District Co-operative Bank Ltd

Possession of an award could not have operated to the disadvantage of a creditor Co–operative Societies Act, 1969 (Kerala) – Section 37 – Possession of an award could not have operated to the disadvantage of a creditor, and to understand the provisions of the statute as above would be height of perversity, as I find it. R.52 of the Kerala Cooperative Societies Rules prescribed the methods by which enforcement could be carried out as spoken to by S.37. Because of the provisions of R.75 and 76, there cannot be a position that a disability is courted. Since their rights are secured by S.37, a defaulting person cannot be permitted to get away out of the liability, especially when he had entered into an agreement fully knowing the consequences that arose from such agreement. *In this judgment* **2002 (3) KLT 169** *and* **2003 (3) KLT 156** *are referred to.*

2004 (3) Ker 282 Trivandrum Cooperative Agricultural Rural Development Bank v/s State of Kerala

Being a surety, the Government servant has equal liability as the principal debtor S.37 – Surety – Government servant standing as surety for loan transaction – Default in payment by principal debtor – Being a surety, the said Government servant has equal liability as the principal debtor for repayment of the loan amount – Held, it can be recovered from Death-cum-Retirement Gratuity of surety.

The provision in the Statute can only be understood as an enabling provision

for recovery of the dues. A strict interpretation that salary paid from month to month alone could have been recovered, basically will be erroneous if not absurd.It will tend also to nullify the terms of the agreement entered into between the petitioner and the Bank. In view of the wordings of S.37, as referred to earlier, it need not be examined as to whether provisions of the Kerala Service Rules are offended. Of course the ruling below R.124 of Part III K.S.R. refers to a position that DCRG is not attachable by a Court of Law. But, the principles cannot be imported because of two reasons. The first is that there is no attachment by a Court of law in the present case. Secondly, in view of S.37, application of the rule itself will be out of place. As a matter of fact, in such cases, and adjudication as referred to in the Kerala Service Rules is not called for.

2003 (3) KLT 156 Surendran v/s Mavelikkare Primary Co-operative Agriculture and Rural Development Bank Ltd

GEHAN

Bank will have a first charge on all other movable and immovable properties of the applicant, and all such properties shall be deemed to have been included in the Gehan mortgage State Cooperative Agricultural And Rural Development Banks Act, 1984 (Kerala) – Section 11(2) – Every person who applies for a loan from a primary bank was expected to make a declaration that the property on which Gehan is created as security in the loan transaction is free from encumbrances – Notwithstanding anything contained in any law for the time being in force, where a declaration given by a loanee is false or defective, the Bank will have a first charge on all other movable and immovable properties of the applicant, and all such properties shall be deemed to have been included in the Gehan mortgage or hypothecation created or executed by the applicant as security for the loan granted.

Section11(2) of the Act speaks of the remedy. Notwithstanding anything contained in any law for the time being in force, where a declaration given by a loanee is false or defective, the Bank will have a first change on all other movable and immovable properties of the applicant, and all such properties shall be deemed to have been included in the Gehan, mortgage or hypothecation created or executed by the applicant as security for the loan granted. Theoretically, at least it may be possible for the Bank to proceed against the 4th respondent or the 6th respondent, at their option, in case they want to enforce their claims.

2004 (3) KLT 369 Kerala State Financial Enterprises Ltd v/s Meenachil Cooperative Agricultural and Rural Development Bank Ltd

CHARGE ON THE LAND

The sale officer can proceed with the sale of other properties of the defaulter first, without proceeding against the mortgaged properties Co-operative Societies Act, 1969 (Kerala), Sections 36 and 71 and Rules 51, 74 and

75 - The sale officer can proceed with the sale of other properties of the defaulter first, without proceeding against the properties mortgaged for realising the amount covered in the arbitration award.

1995 (2) KLT 632 = 1995 (2) KLJ 503 Rosa Chacko v/s Kalloorkad Farmers Co-operative Bank

REGISTRATION

Stamp duty as on date of signing document Stamp Act, 1959 (Kerala) - Sections 2 (f) and 17 - In view of Section 2 (f), a document shall be deemed to be executed for the purpose of the Act, at the time of signing it - Stamp duty payable on it, is the one that is prevailing at the time of signing document - Registration Act, 1908, Section 23

2005 (3) KLT 234 All Kerala Document Writers and Scribes Association v/s State of Kerala

Pre existing obligation Stamp Act, 1959 (Kerala) - Section 2 (a) and Article 5 of the Schedule -Where the obligation is a pre existing one, the subsequent document giving the nature of the obligation or the terms and conditions of the contract shall be a mere agreement. *In this judgment* **1989 (1) KLT 138** *is relied on and* **1966 All LJ 333** *and* **AIR 1958 SC 341** *is referred to.*

2005 (2) KLT SN 26 C 32 Krishnan Kutty v/s Jayakrishnan

Stamp duty on power of attorny Stamp Act, 1959 (Kerala) - Article 44 of Schedule - Authorisation produced before the Assessing authority by Chartered Accountant or Income Tax Practitioner to represent an assessee - A Power of Attorney - Stamp duty in terms of Article 44 is leviable.

2005 (1) KLT 107 Saju K. Abraham v/s Income Tax Officer

Stamp duty payable on a registered document executed by the co-owners of an immovable property Stamp Act, 1959 (Kerala) - Section 2 (k), Article 48 (b) – Stamp duty payable on a registered document executed by the co-owners of an immovable property – If the co-owners decided among themselves that one or some of them would take only a lesser share or that they will take money in lieu of adequate share in the movable or immovable properties, it cannot be inferred that the partition would be inequitable or it is not a partition at all.

If the co-owners decided among themselves that one or some of them would take only a lesser share or that they will take money in lieu of adequate share in the movable or immovable properties, it cannot also be inferred that the partition would be inequitable or it is not a partition at all. By agreeing to any such terms or Conditions, the nature or process of partition does not get affected in any manner. Even in a partition through Court, the respective shares of the parties will be allotted to them separately only if the concerned sharers remit adequate court fee for such separate allotment. The shares of those who do not pay court fee for separate allotment will remain "unallotted". Therefore, there is nothing incongruous in four of the co-sharers decided to keep their

shares as common or joint in a group for the time being. *In this judgment* **1971 (1) MLJ 177, AIR 1964 Mys 124** *and* **AIR 1938 Mad 307** *are relied on.*

2004 (3) KLT 829 = 2004 (2) KLJ 792 = ILR 2004 (3) Ker 551 Dhirajlal Hemchand v/s State of Kerala

Application for certified copy of an agreement registered Section 57 - Petitioner not a party to the document and not a representative of any party and thus does not come within the ambit of Section 57 (3) to claim certified copy of document or entries relating to the document.

The petitioner does not have a case that the second respondent, her husband is having any legal incapacity. Therefore the petitioner cannot claim an implied agency. Thus the petitioner does not come within the ambit of Section 57 (3) to claim certified copy of document or entries relating to the document.

2002 (3) KLT 524 = 2002 (2) KLJ 444 Aysha v/s Sub Registrar

After registration, the registering authority is not entitled to retain possession of the original document Section 45 B (1) - When there is a dispute as to the stamp duty payable on the instrument subject to registration, after registration, the registering authority is not entitled to retain possession of the original document, but is obliged to return the document and take appropriate proceedings under the Act--Registration Act, 1908, Section 61 (2)

Upon an instrument or document being presented for registration, after the endorsement and certificate mentioned in Section 59 and 60 are made thereupon or copied into the margin of the register book and copy of the map or plan after any mention in Section 21 is filed in Book No.1, the registration for the purpose of the Act is deemed to be completed. Section 45 B of the Kerala Stamp Act, 1959 cannot be construed as empowering the Registering Officer to retain possession of the original instrument after registration. He has to comply with the obligation under Section 61 (2) of the Registration Act, 1908 by returning it. Any other construction would give rise to a conflict of obligations under the provisions of Section 45 B and Section 61 (2) of the Indian Registration Act, in which event, Section 45 B not having been reserved for and received the assent of the President, must be held to be pro tanto void as to the power of the Registering Officer to retain the document. Even if there is a dispute as to the stamp duty payable on the instrument subject to registration, after registration of the instrument, the registering authority is not entitled to retain possession of the original document under Section 45 B of the Kerala Stamp Act, 1959. By reason of Section 61 (2) of the Registration Act, 1908, it is obliged to return the document and thereafter take appropriate proceedings under Section 45 B and other provisions of the Kerala Stamp Act for adjudication and recover the underpaid duty. *In this judgment* **OP 20416/2000** *is overruled.*

2002 (1) KLT 806 = 2002 (1) KLJ 315 = ILR 2002 (2) Ker 403 = AIR 2002 Ker 248 DB Periyar Real Estates v/s State of Kerala

If the assent of the President is sought to the Law for a specific purpose, the efficacy of the assent should be limited to that purpose and cannot be extended beyond it Section 45 B - Section 45 B does not override Section 61 (2) of the Registration Act, within the State of Kerala by reason of Article 254 (2) of the Constitution - Registration Act, 1908, Section 61 (2) - Constitution of India, Art. 254 (2)

The assent of the President required under Article 254 (2) is not a matter of idle formality and in order to bring about the result contemplated clause (2) of Article 254, the President, has, at least, to be appraised of the reason by this assent is sought, if there is any special reason for doing so. If the President's assent is sought and given in general terms so as to be effective for all purposes, different considerations may legitimately arise. But if the assent of the President is sought to the Law for a specific purpose, the efficacy of the assent should be limited to that purpose and cannot be extended beyond it. There is no material placed on record from which it is possible to say that the President was appraised of the fact that Section 45 B intended to make a provision which was likely to charge the Registering Officer with a right which would conflict with his obligation under the Law made by parliament, viz. the obligation under Section 61 (2) of the Registration Act. In the absence of such material, we are unable to agree with the contention of the learned Government Pleader that by reason of Article 254 (2), Section 45 B would override Section 61 (2) of the Indian Registration Officer and his duties are subject matters of legislation of which the legislative power is traceable to Entry 6 of the Concurrent List. Legislation made by Parliament would oblige the Registering Officer to hand back the document after completing the formalities of registration. The provision of Section 45 B of the Kerala Stamp Act, 1959, if interpreted in the manner as suggested by the learned Government Pleader, would obligate the Registering Officer to retain possession of the document after registration. On the subject matter of the Registering Officer's duties, the power of legislation cannot strictly be relatable to Entry 44 of the List-III; it is relatable to Entry 6 of the Concurrent List. Thus, though, the legislative competence of the State Legislature to enact Kerala Stamp Act, 1959 arises on account of combined reading of Entry 44 read with Entry 6 of the Concurrent List, insofar as the Registrar's duty of retention of the document after registration is concerned, we are of the view that there is clear inconsistency between the obligation imposed on him under Section 61 (2) of the Registration Act and that imposed on him under Section 45 B (1) of the Kerala Stamp Act, 1959. It is trite law that the Court must construe a statute in such manner that the statute does not become unconstitutional or void. The only manner in which the situation of the pro tanto invalidity Section 45 B can be avoided, is by reading the words "refer the same" to mean reference of the dispute or doubt with regard to the true value of the property or consideration set forth in the instrument and not reading Section 45 B as empowering the Registering Officer to retain the registered document.

If so read, the duty cast on Registering Officer under Section 45 B would not conflict with the duty cast under Section 45 B would not conflict with the duty cast under Section 61 (2) of the Central Act. *In this judgment* **AIR 1988 Guj 29** *is dissented from and* **AIR 1954 SC 752, AIR 1973 SC 231, AIR 1959 SC 648, AIR 1963 SC 1531** *and* **AIR 1979 SC 898** *are referred to.*

2002 (1) KLT 806 = 2002 (1) KLJ 315 = ILR 2002 (2) Ker 403 = AIR 2002 Ker 248 DB Periyar Real Estates v/s State of Kerala

Registrar is not justified in requiring to produce a possession certificate Registration Act, 1908 - Section 33, 35 - Registration Act, 1908 - Section 33, 35 - Registration of sale deed - Registrar is not justified in requiring to produce a possession certificate from the competent authority with regard to the possession of property.

The circular which confers such a power on the Sub Registrar is inconsistent with the provisions of the Act which has got the effect of interfering with the power vested in the Sub Registrars to register documents which satisfies the requirements of the Act is issued without jurisdiction and is not binding on the Sub Registrar. It is not necessary for the petitioner to produce any possession certificates as sought for by the 1st respondent in Ext. P8 objection slip. However, the petitioner has to produce the original of the power of attorney executed by the 2nd respondent and registered in the sub- registry office having jurisdiction over the place where the executant resides authorising the presentation of Ext.P7 document for registration before the 1st respondent. If the petitioner complies with the above and if the other requirements of the Registration Act are satisfied, the 1st respondent will register Ext. P1 document immediately thereafter. *In this judgment* **AIR (32) 1945 Mad 465, AIR 1986 P&H 328** *and* **AIR 1989 Pal 144** *are referred to.*

2002 (1) KLT 330 = AIR 2002 Ker 128 Eshaque v/s Sub Registrar

Where two documents are executed on the same day, the time of their execution would determine the priority Section 47 - Where two documents are executed on the same day, the time of their execution would determine the priority irrespective of the time of their registration.

A document on subsequent registration will take effect from the time when it was executed and not from the time of its registration. Where two documents are executed on the same day, the time of their execution would determine the priority irrespective of the time of their registration. The one which is executed earlier in time will prevail over the other executed subsequently.

2002 (1) KLT SN 113 = 2002 (1) KLJ NOC 55 = 2002 (2) SCC 611 = AIR 2002 SC 959 DB Gurbax Singh v/s Kartar Singh

The Registering Officer has got the power to retain the original document Section 45 B (1) - The Registering Officer/District Registrar has got the power to retain the original document after registration till the adjudication of the reference under Section 45 B (1) is over and its compliance.

The reason for retaining the registered document during the pendency of reference under Section 45 B (1) of the Act is that a registered instrument not duly stamped should not be allowed to be used as evidence for any purpose. Section 33 & 34 of the Act, the relevant portions extracted above prompts me to make the above observations. Thus on a construction of provision of Section 45 (B) and Section 33 & 34 of the Kerala Stamp Act, prima facie, it would appear that the registering authority and the District Collector are entitled to retain the registered documents after registration until the reference made under Section 45 B (1) is determined.

2002 (1) KLT 18 = 2001 (2) KLJ 913 Kerala Builders Forum v/s State of Kerala

Memorandum of title deeds Registration Act, 1908, Section 17 – If the parties execute a memorandum of title deeds intending to reduce the transaction into writing and it is done contemporaneously, it will require registration in so far as it declares the creation of the mortgage – If the memorandum as such does not evidence creation of mortgage – If the memorandum as such does not evidence creation of mortgage and reveals only what happened earlier, it does not require registration – What is decisive is the time factor and not the date – T.P. Act, 1882 S.58(f).

The position would be different if the execution of the memorandum is not contemporaneous and it only confirms the fact of deposit ex-post facto. Surrounding circumstances can be looked into to see whether the execution was contemporaneous or whether it was done after the mortgage had come into effect with the deposit accompanied by the intention to create a mortgage. If the memorandum as such does not evidence creation of the mortgage and only reveals what happened earlier it does not require registration. What is decisive of the question is the time factor and not the date. There is no bar in the execution of a memorandum evidencing the mortgage on the same day and the memorandum will not require registration provided it was executed after the deposit albeit on the same day. *In this judgment* **1998 (2) KLT 125** *is distinguished and* **1950 SCR 548, ILR 1979 (1) Ker 710** *and* **1960 KLT 442** *are referred to.*

2000 (1) KLT 857 = 2000 (1) KLJ 546 = ILR 2000 (2) Ker 393 = AIR 2000 Ker 240 Joseph v/s Michael

Effect of non-registration Registration Act, 1908, Section 49 – Part of the document requiring registration – Part severable from the part not requiring registration – Such part is admissible in evidence.

Applying the aforesaid principles to the document in hand, what emerges are two different and severable obligations, the first evidencing a transaction of borrowal and creation of personal liability for repayment of the borrowed amount and the 2nd with regard to the creation of a charge therefore. In view of the bar under S.49 of the Registration Act, what follows is that the former part of the agreement which creates personal liability of the defendant can be enforced through court whereas the latter

portion becomes unenforceable. The court below was therefore wrong in declining to mark the relevant document and the impugned order is defective to that extent.

1999 (3) KLT 704 = 1999 (2) KLJ NOC 36 Mohanachandran Pillai v/s Ramachandran

Stamp Vendors having licence are entitled to sell stamps Sections 74 and 75 - Stamp Vendors having licence under the Kerala Act are entitled to sell stamps in relation to documents mentioned in Entry 91 of list 1 od Seventh Schedule of the Constitution of India.

1999 (1) KLT 673 = ILR 1999 (2) Ker 712 = AIR 1999 Ker 341 Sreedevi P. v/s State of Kerala

Registering officer is not an attesting witness Sections 3 and 59 - A person signing as a registering officer is not an attesting witness.

The essential conditions of a valid attestation under S.3 of the T.P. Act are, two or more witnesses must have seen the executant signing the instrument or have received from him personal acknowledgment of his signature, and with a view to attest or to bear witnesses to this fact, each of them has signed the instrument in the presence of the executant. It is essential that the witnesses should have put the signature animo attestandi, i.e. for the purpose of attesting he has seen the executant sign or has received from him personal acknowledgment of his signature. If a person has put his signature on the document for some other purpose, for example, to certify that he is the scribe or a identifier or an registering officer he is not an attesting witness. The registerig officer puts his signature in the document in the discharge of his statutory duty under S.59 of the Registration Act and not for the purpose of attesting it or certifying that he has received from the executant personal acknowledgement of his signature. The Sub Registrar has put his signature not with the intention of attesting it.

1998 (1) KLT 888 = AIR 1998 Ker 280 Marci Celine D' Souza v/s Rire Femaedez

Criterion is not the value of the property as a whole Registration Rules (Kerala), 1958, R.30 (iii) - Criterion should be the value of the property or the interest of the person in such property that is sought to be transferred and not the value of the property as a whole in which such interest of the transferor is sought to be transferred - See - Income Tax Act, 1961, S.230.

1998 (1) KLT 742 A.Sunil v/s State of Kerala

Smaller shares which have been separated off from the larger share should be the criterion for fixing the stamp duty payable on the instrument Article 42 - On a plain readig of Art. 42 of the Act, it becomes clear that duty payable on the instrument of partition is for the amount of the value of the separated share or shares of the property. In this case one-third is the separated share and 'largest' share is two-third. In engrossing final decree, stamp paper for the value of one-third share alone is necessary, Admittedly the plaintiff-respondent has already remitted the value

of two tried share, Since the plaintiff is liable to pay the value of the separated share alone, there will be a direction to the trial court to fix the value of one-third separated share and the stamp duty payable thereon. Deducting the cost necessary for purchasing stamp paper for engrossing one-third share, the balance amount will have to be returned to the plaintiff. *In this judgment* **AIR 1934 Mad 204 Venkatappa v/s Musal** *and* **AIR 1976 AP 45 D.B.Pothula v/s Pothula** *are relied on.*

1998 (1) KLT 245 = 1998 (1) KLJ 260 Mary Simon v/s Tressa Xavier

Lease deeds for 11 months Sections 17 (1) (d) and 49 - Lease of immovable property from month to month for 11 months need not be registered though reduced to writing - Such lease deed is admissible in evidence-See-T.P.Act 1882, S.10(53A).

1998 (1) KLT SN 8 P 10 Satish Kumar v/s Zarif Ahmed

Registration and Acts done in good faith Section 51 - Believing in 'good faith' meaning of - If merely mean honestly believed - It does not matter whether it is done negligently or in ignorance of law - General Clauses Act, 1897.

'Good faith' has been defined in the General Clauses Act, 1897 as folows'; "A thing shall be deemed to be done in 'good faith' whether it is in fact done honestly whether it is done negligently or not". Ramanatha Iyer's Law Lexicon defines 'goods faith' as follows: "Honestly, absence of fraud-collusion or deceit". Section 52 of the Penal Code gives a different definition as to anything which is done without due care and attention, will be held to be not done care and attention, will be held to be not done in good faith. The same definition is carried in S.2(h) of the Limitation Act, S.51 of the Transfer of Property act has come for interpretation by the various High courts. A conspectus of these decisions show that the definition in the General Clauses Act has been applied. Thus, it is clear that believing in good faith merely means believed. It does not matter whether it is done negligently or in ignorance of law. *In this judgment* **1958 KLT 1195 N.Subramani Iyer v/s Official Receiver, Quilon, 1974 (1) WLR 659 Smith v/s Chief and Registrar and others, ILR 30 Mad 197 Durgozi Row and another v/s Fakeer Sahib and others, AIR 1926 Mad 609 Ram Aiyar and others v/s Marayansami Aiyar and others, AIR 1930 PC 297 Narayanaswami Ayyar v/s Rama Ayyar** *and* **AIR 1927 Bom 611 Harilal Ranchhod and others v/s Gordhan Keshave and others** *are referred to.*

1997 (2) KLT 876 = 1997 (2) KLJ 327 Chandu v/s Sreedharan Nair

Sub Registrar cannot refuse registration Section 34 - When a document is presented for registration, the Sub Registrar cannot refuse registration, as the rights granted is assignable and unless it is prohibited by law.

1996 (1) KLJ 198 Karappara Estate v/s Sub Registrar and others

Collector has to decide the true consideration which passed between the parties and not the market value of the property Section 45 - A collector has to decide the true consideration which passed between the parties and he is not entitled to take into account the market value of the property in determining whether

proper duty is paid or not.

This is a case where the District Registrar has acted beyond his jurisdiction in taking into account the market value to come to the conclusion that proper duty has not been paid. Even in the notice issued originally under Rule 6, there is no mention by the District Registrar that the real consideration that passed between the parties has not been shown in the document. The instrument in question being a conveyance, an action under S. 45A is possible only if the Collector is satisfied that something more than what is shown in the document has passed for the vendee to the vendor.

1996 (1) KLT SN 41 P 31 Balakrishnan v/s Collector

Document found to be insuficienly stamped can be impounded Section 33 - Document found to be insuficienly stamped -Can be impounded even when its period has already expired.

There is no force in the contention of the petitioner that a document which has been found to be insufficiently stamped when produced before court canot be impounded when its period has already expired. The limitation is only for the purpose of filing suits and that cannot absolve the petitioner of his liability under the Stamp Act. *In this judgment* **AIR 1983 MP122 State v/s Jiwan Mathur Prasad** *is relied on.*

1995 (2) KLT 292 = 1995 (2) KLJ 315 = ILR 1995 (3) Ker 604 = ILR 1996 Ker 98 Asokan v/s Deputy Collector

Registration of declaration forms creating charge on land for loan Society sending the documents by registered post to Sub Registrar for registration. Sub Registrar insisting that the party should appear in person - Section 36 (vi) of the Act, Perhaps, exempts a co-operative society from the obligation of presenting the document in person. This does not mean that Section 36 (vi) of the Act exempts the person from the other obligation under the Indian Registration Act. Rule 29 (iii) of the Registration Rules is a rule made by the State of Kerala. This rule and Section 36 (vi) of the Act have to be read together. Section 36 (vi) should be read as an exemption to Rule 29 (iii) of the Kerala Registration Rules. Even then all other formalities in the Indian Registration Act are to be complied with. The first respondent is therefore justified in refusing to register the document.

1978 KLT 640 K.V.C.K.K. Co-operative Society v/s Sub Registrar

SET OFF

Fixed Deposit in Bank Civil Procedure Code, 1908 - Section 115 - Fixed deposit in Bank in joint names of husband and wife under either or survivor clause - It was not open to the Bank to adjust the fixed deposit of the joint holders against the pledge made by one of the holders - Bank had no right to refuse payment to the wife and such refusal was contrary to the banking norms. *In this judgment* **1993 (1) SCC 499, AIR 1954 Cal 303, AIR 1928 Lah 316** *and* **1938 (2) KB 801 (L)** *are referred to.*

2005 (1) KLT 211 SC Anumati v/s Punjab National Bank

REFERRED LAWS

THE KERALA STATE CO-OPERATIVE (AGRICULTURAL AND RURAL DEVELOPMENT ACT, 1984

CHAPTER III LOANS

S.10. Charge on movable or immovable property of borrower for amounts borrowed:- (1) Notwithstanding anything contained in the Kerala Co-operative Societies Act, 1969 (21 of 1969), or in any other law for the time being in force, but subject to any claim of the Government in respect of land revenue or amounts recoverable as land revenue, whether prior in time or subsequent, any person owning any land or having interest in any land as tenant or occupier or owning any other movable or immovable property who applies to a primary bank for a loan, shall make a declaration in the prescribed form creating a Gehan or mortgage or hypothecation in favour of the primary bank on the land or other movable or immovable property or interest therein or any movable property or movable assets to be acquired with the loan, specified in the declaration, for the repayment of the loan or advance granted or to be granted to him by the primary bank, together with interest on such amount of the loan or advance and expressly reserving in favour of the primary bank a right of sale without intervention of Court, in case of default.

(2) A declaration under sub-section (1) may be varied or cancelled at any time by the member with the prior approval of the primary bank.

(3) No land or other movable or immovable property or any movable property or movable assets to be acquired with the loan or advance in respect of which a declaration under sub-section (1) has been made and no part thereof or of the interest in such land or movable or immovable property shall, without the consent of the primary bank, be sold or otherwise transferred until the entire amount of the loan or advance taken by the member from the primary bank, together with interest thereon has been paid to the bank, and any transaction made in contravention of this sub-section shall be null and void.

(4) Notwithstanding anything contained in the Registration Act, 1908 (Central Act 16 of 1908), or any other law for the time being in force, it shall not be necessary to register any Gehan or mortgage or hypothecation created or executed in favour of the Agricultural and Rural Development Bank or a primary bank, provided the Agricultural and Rural Development Bank or the primary bank, as the case may be, sends within such time and in such manner as may be prescribed, a copy of the declaration or instrument whereby the Gehan or mortgage or hypothecation has been created or executed for the purpose of securing repayment of the loan, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property to which the Gehan or mortgage or hypothecation relates is situate.

(5) On receipt of the copy of the declaration or instrument sent under sub-section (4), the registering officer shall file a copy or copies thereof, as the case may be, in Book No. 1, referred to in Section 51 of the Registration Act, 1908 (Central Act 16 of 1908), and thereupon such Gehan or mortgage or hypothecation shall be deemed to create an interest in the property to which the declaration or instrument relates and shall constitute notice to any one dealing with the said property.

(6) Any person who makes any false statement in a declaration under sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

S.11. Applicant for loan from primary bank to furnish declaration :- (1) Every person who applies for a loan from a primary bank shall make a declaration in the prescribed form before an officer specified by the Registar in this behalf that the movable or immovable property

on which the Gehan or mortgage or hypothecation is created as security for the loan is free from encumbrances, that he is in actual possession thereof and that he has right to create the Gehan or mortgage or hypothecation, as the case may be, thereon in favour of the primary bank.

(2) Notwithstanding anything contained in any law for the time being in force, where a declaration under sub-section (1) in respect of any movable or immovable property is false or defective, the primary bank shall, subject to the provisions of Section 13, have a first charge on all other movable and immovable properties of the applicant, and all such properties shall be deemed to have been included in the Gehan created or mortgaged or hypothecation executed by the applicant as security for the loan granted to him by the primary bank.

(3) Any person, who makes a false declaration under sub-section (1) or make any statement which is false in any such declaration shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(4) The amount of loan that may be sanctioned on the basis of a declaration made under sub-section (1) shall be subject to such limit as may be prescribed.

S.12. Priority of Gehan, mortgage and hypothecation :- (1) Any amount payable under a Gehan created or mortgage or hypothecation executed in favour of the Agricultural and Rural Development Bank or primary bank shall have priority over any claim of the Government arising from a loan under the Kerala Land Development Act, 1964 (17 of 1964), or the Kerala Agriculturist's Loans Act, 1961 (27 of 1961), granted after the creation of the Gehan or the execution of the mortgage or hypothecation.

(2) Notwithstanding anything contained in any law for the time being in force, a Gehan created or mortgage or hypothecation executed in favour of the Agricultural and Rural Development Bank or a primary bank shall take precedence over any attachment or equittable mortgage over the properties, where after publication of the notice in the prescribed form, the claim or interest under such attachment or equittable mortgage has not been notified to such bank within the time prescribed in the said notice.

S.13. Transfer and vesting Gehan, mortgage and hypothecation with Agricultural and Rural Development Bank :- A Gehan created or mortgage or hypothecation executed or deemed to have been created or executed in favour of and all other assets transferred or deemed to have been transferred to, a primary bank, shall, with effect from such creation, execution or transfer or with effect from the date of such deeming, as the case may be, be deemed to have been transferred by such primary bank to the Agricultural and Rural Development Bank.

S.14. Money borrowed for development of land :- Where a primary bank has granted a loan for improvement of any land situated in any area or areas covered by any specific programme of agricultural development, to a person appearing to the primary bank to have title to the said land or to be in lawful possession thereof, and the money has been either in whole or in part utilised for such improvement, any person acquiring title to such land on ground of superior title or on any other ground shall be liable to repay to the primary bank so much of the loan as has been utilised for the improvement of the land together with interest thereon.

S.15. Loans to persons having restricted rights of transfer :- (1) Notwithstanding anything contained in any law, custom or usage, where a primary bank makes a loan or an advance to a member belonging to a Scheduled Caste or Scheduled Tribe or to any other person having restricted rights of alienation over immovable property it shall be competent to such member or person to create a Gehan or mortgage or hypothecation on such property in favour of such primary bank as security for such loan.

(2) The primary bank, shall, in the event of default by the member or the person and without prejudice to any other remedy available to it either under law or contract or otherwise, be entitled to take possession of such property and lease the same to any person belonging to the same caste or tribe as the member belongs in case the defaulter is a member of a Sheduled Caste or Scheduled Tribe and in any other case to any person and appropriate the net receipts from the lease in repayment of the moneys due to it; and the member or person shall not be entitled to recover possession of such property until the amount due to the primary bank has been repaid in full.

THE INDIAN REGISTRATION ACT, 1908
CHAPTER III OF REGISTRABLE DOCUMENTS

S.17. Documents of which registration is compulsory :- (1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. 16 of 1864, or the Indian Registration Act, 1866 (20 of 1866) or the Indian Registration Act, 1871 (8 of 1871), or the Indian Registration Act, 1877 (3 of 1877), or this Act came or comes into force, namely,-

(a) instruments of gift of immovable property;

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property;

THE TRANSFER OF PROPERTY ACT, 1882
CHAPTER III OF SALES OF IMMOVABLE PROPERTY

S.54. "Sale" defined :- "Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.

Sale how made :- Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immovable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immovable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale :- A Contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.

CHAPTER IV OF MORTGAGES OF IMMOVABLE PROPERTY AND CHARGES

S.59. Mortgage when to be by assurance :- Where the principal money secured is one hundred rupees or upwards, a mortgage other than a mortgage by deposit of title-deeds can be effected only by a registered instrument signed by the mortgagor and attested by at least two witnesses.

Where the principal money secured is less than one hundred rupees, a mortgage may be effected either by a registered instrument signed and attested as aforesaid or except in the case of a simple mortgage by delivery of the property.

S.59A. References to mortgagors and mortgagees to include persons deriving title from them :- Unless otherwise expressly provided, references in this Chapter to mortgagors and mortgagees shall be deemed to include references to persons deriving title from them respectively.

NOTIFICATIONS AND CIRCULARS

NOTIFICATIONS OF GENERAL REMISSIONS AND DEDUCTIONS OF STAMP DUTY UNDER KERALA STAMP ACT, 1959

Instrument Executed by or on behalf of any Registered Co-operative Societies

SRO No.75/60 :- In exercise of the powers conferred by sub-sections (1) and (2) of section 35 of the Travancore Cochin Co-operative Societies Act, 1951 (Act X of 1952) and by sub-section (2) (a) and (2) (b), Section 30 of the Madras Co-operative Societies Act (VI of 1932) and in Supersession of all notifications issued on the subject, the Government, of Kerala direct in respect of Co-operative Societies registered in the State as follows.

1. The Stamp duty, registration fees and fees for encumbrance certificates payable under the Stamp Act and the Registration Act, in force in the State shall be remitted to the Co-operative Societies, in the following cases to the extent indicated in each case.

(a) The whole stamp duty with which under the Kerala Stamp Act 1959 (Act 17 of 1959) Instruments executed by or on behalf of any registered Co-operative Society or instruments executed by "any Officer of such society or member in his own capacity or/and in the capacity of a Guardian of minor" and relating to the business thereof and decisions, awards or orders of the Registrar or the Arbitrator under the said Co-operative Societies Act.

(b) One-half of all fees payable under the law of registration for the time being in force, in respect of any document executed by or on behalf of any registered Co-operative Society or by any officer of such society or member in his own capacity or/by and in the capacity of a guardian of minor and relating to the business there of provided the fees at full rate, shall be levied in respect of documents of the value exceeding Rs. Five thousand.

(c) The whole of the search fees payable under Art XI of the table of fees prescribed under Section 78 of the Indian Registration Act 1908 (Act XVI of 1908) by notification No.G.O.(P) 687/66/RD dated 17th December 1966, in respect of applications for encumbrance certificate, made by the Land Mortgage Banks in connection with loans not exceeding Rs. Two thousand.

(d) One-half of the search fees payable under Art XI of the table of fees prescribed under section 78 of the Indian Registration Act. 1908 (Act XVI of 1908) by notification No.G.O.(P) 687/66/RD dated 17th December

1966, in respect of applications for encumbrance certificate, made by the President or Secretary or the Managing Director of a registered Co-operative Society other than Land Mortgage Banks and in the case of Land Mortgage Bank by the President, Secretary or Managing Director or by an officer not below the rank of an Inspector (or Supervisor where there is no Inspector) in connection with loans not exceeding Rs. five thousand.

Note: 1. (In clause (d) the word Managing Director has been substituted as per notification No.81174/C3/33/AD. Dated 3-4-1984)

2. The term 'One half of all fees' applies to all fees under the law of registration including.

(1) Fees for attendance at Private residences, Commission and the service of a female attendant at a private residence.

(2) Fees for appeals and enquires under section 35,41,72 and 73 of the Registration Act.

(3) Fees for attestation of power of Attorney

(4) Fine for late presentation and admission and safe custody of documents.

(5) Fees for memoranda and filing translations.

(6) Fees for copies of documents under section 65 of the Registration Act.

(7) Fees for excess pages used in copying in registers.

Remission granted under clause (c) applies in respect of applications from Co-operative Land Mortgage Banks for encumbrance certificates in connection with loans not exceeding Rs. 2,000 whereas concessions granted under clause (d) applies to application for encumbrance certificate in concession with Loans exceeding Rs. 2,000 but not exceeding Rs. 5,000.

Concessions in search fee under (c) and can be given irrespective of the fact whether the applications comprised properties situate in more than one village or result of the search disclosed more than the one ownership.

The concession granted cannot be extended to a document executed by a non member in favour of Co-operative Society or Land Mortgage Bank, even if presentation thereof is made by the President or any office bearer of such society or Bank.

Chitties or Kuries conducted by the Co-operative Societies the variola of

which since come under Schedule 19 of Kerala Stamp Act is entitled to concession in stamp duty while no concession in fee is allowed for registration of the variola as the fees is prescribed under chitty Act and not under the law of registration

G.O.(MS) 795/60/Agri. dated, 8th October 1960

Debentures of Kerala Co-operative Central Land Mortgage Bank, Tvm.

SRO. No. 803/63 :- In exercise of the powers conferred by Clause (a) of sub-section (1) of section 9 of the Kerala Stamp Act, 1959 (Act 17 of 1959) the Government of Kerala, being of the opinion that it is necessary in the public interest so to do hereby remit the duty with which instruments evidencing transfer of debentures floated by the Kerala Co-operative Central Land Mortgage Bank Ltd., Trivandrum, are chargeable under the said Act.

G.O.(MS) 944/63 REV dated 26-12-1963, K.G. No. 52 dated 31-12-1963

Receipts etc. executed by or on behalf of any Co-operative Societies

SRO. No. 2704/65 :- In exercise of the powers conferred by Clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899) and in partial modification of the late Finance Department's Notification No. 2781 F, dated the 23rd October, 1919, the Central Government hereby remit the proper stamp duty chargeable in respect of

(a) Bills of Exchange, Cheques, Promissory notes, Bills of Lading, Letters of Credit, Policies of Insurance, Transfer of shares, Debentures, Proxies and receipts throughout India.

(b) all other instruments in the Union terrotories, executed by or on behalf of any society for the time being registered or deemed to be registered under any law relating to Co-operative Societies for the time being in force, or executed by any officer or member of any such societyand relating to the business of such society.

SRO. No. 2704/65 dated 7-11-1960 (as amended by 3050/65)

Any co-operative society of which the majority of members are Harijans

S.R.O.No. 658/82 :- In exercise of the powers conferred by sub section (1) of Section 40 of the Kerala Co-operative Societies Act 1969 (21 of 1969). The Government of Kerala hereby remit the full all fees payable under the law of registration for the time being in force for the registration of documents and for obtaining encumbrance certificates thereof by any co-operative society, for the time being registered or deemed to be registered under the said Act, of which the majority of members are Harijans.*This notification shall be in force for a period of three years from the date of its publication in the Gazette.*

G.O.(P) No.156/81/AD dt. 27-4-1981 published in K.G.No. 21 dt. 25-5-81

കേരള സർക്കാർ

നമ്പർ 2959/സി.ബി.2/84/കൃഷി കൃഷി (സഹകരണ ബി) വകുപ്പ്
തിരുവനന്തപുരം 31–8–1985

ഗവൺമെന്റ് സെക്രട്ടറി

സെക്രട്ടറി
സർക്കിൾ കോ –ഓപ്പറേറ്റീവ് യൂണിയൻ
കണ്ണൂർ

വിഷയം: **സഹകരണ കൺസ്യൂമർ സ്റ്റോറുകൾ നടത്താനുള്ള ലൈസൻസിന് അപേക്ഷിക്കുമ്പോൾ കോർട്ട് ഫീസ് മുദ്ര പതിക്കുന്നതിൽ നിന്ന് ഒഴിവാക്കമെന്ന ആവശ്യം**

പരാമർശം: **താങ്കളുടെ 25–4–83 ലെ കത്ത്**

മേൽ സൂചിപ്പിച്ച വിഷയം സംബന്ധിച്ച് കണ്ണൂർ സർക്കിൾ കോ–ഓപ്പറേറ്റീവ് യൂണിയൻ 13–4–83 ൽ പാസ്സാക്കിയ പ്രമേയം സംബന്ധിച്ച് മറുപടി താഴെ കുറിക്കുന്നു.

1984 ഫെബ്രുവരി 14–ാം തീയതിയിലെ ജി.ഒ.(പി) 1–ാം നമ്പർ ഗവൺമെന്റ് ഉത്തരവിലെ (ഒഴിവാക്കൽ) എന്ന തലക്കെട്ടിലെ 11–ാം ഖണ്ഡിക പ്രകാരം പ്രസ്തുത ഖണ്ഡികയിലെ (എ) മുതൽ (എച്ച്) വരെ ഖണ്ഡങ്ങളിൽ പറയുന്ന സംഗതികൾക്കൊഴികെ സംസ്ഥാനത്തെ സഹകരണ സംഘങ്ങൾ സംസ്ഥാന ഗവൺമെന്റിന്റെ ഏതെങ്കിലും ഓഫീസുകളിൽ സമർപ്പിക്കപ്പെടുന്ന അപേക്ഷകളേയും ഹർജികളേയും കേരള കോർട്ട് ഫീസ് വ്യവഹാര സലയും ആക്ട് 2–ാം പട്ടിക 10–ാം ആർട്ടിക്കിൾ പ്രകാരം വസൂലാക്കാവുന്ന ഫീസിൽ നിന്ന് ഒഴിവാക്കപ്പെട്ടിട്ടുണ്ട്. ആയതിനാൽ സംസ്ഥാനത്തെ സഹകരണ സംഘങ്ങൾ കൺസ്യൂമർ സ്റ്റോറുകൾ നടത്താനുള്ള ലൈസൻസിനായി സമർപ്പിക്കപ്പെടുന്ന അപേക്ഷകളിൻമേൽ കോർട്ട് ഫീസ് സ്റ്റാമ്പ് പതിക്കേണ്ടതില്ല.

താങ്കളുടെ വിശ്വസ്തൻ
എസ്.രാജഗോപാലാചാരി
അണ്ടർ സെക്രട്ടറി
സെക്രട്ടറിക്കുവേണ്ടി

Agreement executed by the fishermen artisans in favour of Kerala State Co-operative Federation for Fisheries Development Limited

S.R.O.No. 383/89 :- In exercise of the powers conferred by clause (a) of sub section (1) of Section 9 of the Kerala Stamp Act 1959 (Act 17 of 1959) the Government of Kerala, being of opinion that it is necessary in the public interest so to do, hereby remit the duties with which the agreements to be executed by the Fishermen / Artisans

in favour of the Kerala State Co-operative Federation for Fisheries Development Limited, or the Kerala Artisans Development Corporation Limited as the case may be, for getting financial aid under the schemes implimented by the said Federation / Corporation as security for the repayment of the amount advanced to them for the purchase of implements, are chargeable under the said Act.

G.O.(P) No.15/89/TD dated 23-1-1989 published in K.G.No. 10 dated 7-3-1989

Documents executed by Co-operative Societies of SC and ST

S.R.O.No. 1200/90 :- In exercise of the powers conferred by clause (a) of sub section (1) of Section 9 of the Kerala Stamp Act 1959 (Act 17 of 1959) the Government of Kerala, being of opinion that it is necessary in public interest so to do, hereby remit the duties with which documents to be executed by the Co-operative Societies of the Scheduled Castes and Scheduled Tribes are chargeable under the said Act, for one year from the date of issue of this order.

G.O.(P) No.125/90/TD dated 17-8-1990

കേരള സർക്കാർ

നമ്പർ 27221/ഇ.3/95/റ്റി.ഡി. **നികുതി (ഇ) വകുപ്പ്**

തിരുവനന്തപുരം 28–3–1995

സെക്രട്ടറി

രജിസ്ട്രേഷൻ ഇൻസ്പെക്ടർ ജനറൽ

തിരുവനന്തപുരം.

സർ,

വിഷയം: **സഹകരണ സംഘങ്ങൾക്കുള്ള രജിസ്ട്രേഷൻ ഫീസ് 1% ആയി കുറച്ച് സഹകരണ ബാങ്കുകൾക്ക് ബാധകമാണോ എന്ന സംശയം –നിവാരണം– സംബന്ധിച്ച്.**

സൂചന: **ബാങ്കുകളുടെ 12–12–95 ലെ ആർ.ആർ.4–34531/95 നമ്പർ കത്ത്**

സൂചനയിലേക്ക് ശ്രദ്ധ ക്ഷണിക്കുന്നു. സഹകരണ നിയമപ്രകാരം രജിസ്റ്റർ ചെയ്ത സഹകരണ ബാങ്കുകളും സഹകരണ സംഘങ്ങളുടെ പരിധിയിൽ പെട്ടതാണ്. അതിനാൽ സഹകരണ ബാങ്കുകൾ അനുവദിക്കുന്ന കാർഷിക വായ്പകൾക്ക് ജി.ഒ.(പി) 251/95/റ്റി.ഡി.പ്രകാരമുള്ള ഇളവിന് അർഹതയുണ്ട് എന്ന വിവരം അറിയിക്കുന്നു.

താങ്കളുടെ വിശ്വസ്തൻ
എ. എൽ. മീരാൻ
അണ്ടർ സെക്രട്ടറി
സെക്രട്ടറിക്കുവേണ്ടി

നമ്പർ സി.പി.(4)18224/95 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്
തിരുവനന്തപുരം,18–4–96

സഹകരണസംഘം രജിസ്ട്രാർ,

ഇൻസ്പെക്ടർ ജനറൽ ഓഫ് രജിസ്ട്രേഷൻ
കേരള, തിരുവനന്തപുരം.

സർ,

വിഷയം: **സഹകരണ വകുപ്പ് – സഹകരണ സംഘങ്ങളെ രജിസ്ട്രേഷൻ ഫീസിൽ നിന്ന് ഒഴിവാക്കുന്നതു സംബന്ധിച്ച്.**

സൂചന: **ഗവൺമെന്റിന്റെ 25–10–1995 ലെ ജി.ഒ.(പി) 231/95 റ്റി.സി.നോട്ടിഫിക്കേഷൻ**

സൂചനയിലെ നോട്ടിഫിക്കേഷൻ പ്രകാരം സംസ്ഥാനത്തെ സഹകരണ സംഘങ്ങൾ വഴി അംഗങ്ങൾക്ക് നൽകുന്ന 2 ലക്ഷ രൂപ വരെയുള്ള കാർഷിക വായ്പ, ഭവന നിർമ്മാണ വായ്പ എന്നിവക്ക് വസ്തു ജാമ്യം നൽകുമ്പോൾ ഈടു പ്രമാണങ്ങൾ രജിസ്റ്റർ ചെയ്യുന്നതിന് 1% ഫീസു നൽകിയാൽ മതിയാകും എന്ന് വ്യവസ്ഥ ചെയ്തിട്ടുണ്ട്. പ്രസ്തുത ഉത്തരവിന്റെ ഒരു പകർപ്പ് ഇതോടൊപ്പം ഉള്ളടക്കം ചെയ്യുന്നു.

സംസ്ഥാനത്തെ ചില സബ് രജിസ്ട്രാർമാർ ഈ ആനുകൂല്യം സർവീസ് സഹകരണ ബാങ്കുകൾക്ക് അനുവദിച്ചു നൽകുന്നില്ല എന്നു കാണിച്ച് നിരവധി പരാതികൾ ഈ ആഫീസിൽ ലഭിച്ചുകൊണ്ടിരിക്കുകയാണ്.

ഇതു സംബന്ധിച്ച് സബ് രജിസ്ട്രാർമാർ ഉന്നയിക്കുന്ന തടസ്സം പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ ബാങ്കുകൾ, പ്രാഥമിക കാർഷിക വായ്പാ സംഘങ്ങൾ എന്ന നിർവചനത്തിൽ വരുന്നതല്ല എന്നതാണ്. എന്നാൽ ഇവ രണ്ടും ഓരോ രീതിയിലുള്ള സഹകരണ സ്ഥാപനങ്ങൾ തന്നെയാണ്. ചില സഹകരണ സ്ഥാപനങ്ങളുടെ പേരിനോടൊപ്പം ബാങ്ക് എന്നും ചിലതിനോടൊപ്പം സൊസൈറ്റി എന്നും ചേർക്കുന്നു എന്നത് മാത്രമാണ് വ്യത്യാസം.

സഹകരണ നിയമപ്രകാരം രജിസ്റ്റർ ചെയ്യുന്ന ടി സ്ഥാപനങ്ങൾ സംഘം എന്നോ ബാങ്ക് എന്നോ പേരിനോടൊപ്പം ചേർത്താലും അവയെല്ലാം ഒരേ രീതിയിലുള്ള സഹകരണ സംഘങ്ങൾ തന്നെയാണ്. ആയതിനാൽ സംസ്ഥാനത്തെ എല്ലാ സഹകരണ ബാങ്കുകൾ/സൊസൈറ്റികൾക്കും സൂചനയിലെ ഉത്തരവുകൾ പ്രകാരമുള്ള ഫീസിളവിന് അർഹതയുള്ളതാണ്.

മേൽ സാഹചര്യത്തിൽ സംസ്ഥാനത്തെ പ്രാഥമിക വായ്പാ സഹകരണ സ്ഥാപനങ്ങൾ വസ്തു ഈടിൻമേൽ നൽകേണ്ട രണ്ട് ലക്ഷം രൂപ വരെയുള്ള എല്ലാ കാർഷിക ഭവന നിർമ്മാണ വായ്പകൾക്കും സഹകരണ ബാങ്ക് എന്നോ സഹകരണ സംഘങ്ങൾ എന്നോ വേർതിരിവ് ഇല്ലാതെ സൂചന നോട്ടിഫിക്കേഷൻ പ്രകാരം

അർഹമായ ഫീസിളവ് നൽകുന്നതിന് വേണ്ട നിർദ്ദേശം സംസ്ഥാനത്തെ എല്ലാ സബ് രജിസ്ട്രാർമാർക്കും നൽകണമെന്ന് അഭ്യർത്ഥിക്കുന്നു. ഇപ്രകാരം നൽകുന്ന നിർദ്ദേശത്തിന്റെ പകർപ്പ് ഈ ആഫീസിലേക്ക് അയച്ചു തരുന്നതിന് താൽപ്പര്യപ്പെടുന്നു.

താങ്കളുടെ വിശ്വസ്തൻ

സഹകരണസംഘം രജിസ്ട്രാർക്കുവേണ്ടി

GOVERNMENT OF KERALA

Taxes (E) Department

NOTIFICATION

G.O.(P) No. 251/95/TD. Thiruvananthapuram 25th October 1995.

S.R.O. No. 1256/95-In exercise of the powers conferred by section 78 of the Registration Act, 1908 (Central Act 16 of 1908 the Government of Kerala hereby make the following amendment to Table of Fees prescribed in the notification issued under G.O.(P) 147/77/TD dated 23rd November, 1977 and published as S.R.O. No. 1112/77 in the Kerala Gazette No.50 dated 19th November, 1977 as subsequently amended:-

AMENDMENT

In the said notification in article I, after Note (vi to sub-clause (i) of clause (a), the following Note shall be added, namely:-

"(vii) The registration fee for documents securing agricultural loans through Co-operative Societies and housing loans through Housing Co-operative Societies upto Rs. Two lakhs shall be 1% of the value."

The notification shall come into force with immediate effect.

By order of the Governor
N. M. Samuel
Secretary to Government

നമ്പർ സി.ആർ.പി.5416/99 എൽ.ഡിസ്.

സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ(ജനറൽ ഓഫീസ്)
തൃശൂർ 24–3–2000

ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ)
തൃശൂർ

സഹകരണസംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ)
മുകുന്ദപുരം

സർ,

വിഷയം: **സഹകരണ സംഘങ്ങൾ നൽകുന്ന ഒഴിമുറിക്ക് പലിശ കൂടി കണക്കാക്കി രജിസ്ട്രേഷൻ ഫീസ് നൽകുന്നത്–സംബന്ധിച്ച്**

സൂചന: **1) മുകുന്ദപുരം അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) ന്റെ 3–9–99 ലെ 1634/99 നമ്പർ കത്ത്.**

2) തൃശൂർ ജില്ലാ രജിസ്ട്രാറുടെ 1–2–2000 ലെ ഐ.എൻ.എസ്.2 75/ 2000 നമ്പർ കത്ത്.

സൂചനയിലേക്ക് താങ്കളുടെ ശ്രദ്ധ ക്ഷണിക്കുന്നു. പണയ ഒഴിമുറി ആധാരങ്ങളിൽ രജിസ്ടേഷൻ ഫീസ് ഈടാക്കുന്നത് പ്രതിഫല സംഖ്യയിൻമേലാണ്. പ്രതിഫല സംഖ്യയെന്നാൽ പണയത്തുക, അതിൻമേലുളള പലിശ, നേരത്തേ പണം വല്ലതും കൊടുത്തിട്ടുണ്ടെങ്കിൽ അത് എന്നിവയുടെ ആകെ തുകയാണെന്ന് അറിയിക്കുന്നു.

വിശ്വസ്തതയോടെ
ജോയിന്റ് രജിസ്ട്രാർക്കു വേണ്ടി

GOVERNMENT OF KERALA
TAXES (E) DEPARTMENT

NOTIFICATION

G. O. (P) No. 92/2000/TD. Thiruvananthapuram, 12th June, 2000

S.R.O.No. 563/2000-In exercise of the powers conferred by section 78 of the Registration ACT, 1908 (Central Act 16 of 1908), the Government of Kerala hereby make the following further amendment Table of Fees prescribed in the notification issued under G.O.(P) 147/77/TD. Dated 23rd November 1977 and published as S.R.O. No. 1112/77 in the Kerala Gazette No. 50 dated 13th December, 1977 namely:-

AMENDMENT

In the said Notification, in Article I, in Note (vii) to sub-clause (i) of clause (a), after the words "two lakhs" the following words shall be inserted, namely:-

"and for the release deeds thereof"

This notification shall come into force at one.

By Order of the Governor
Nalini Netto
Secretary to Government

EXPLANATORY NOTE

(This does not form part of the order but is intended to indicate its general purport)

As per G. O. (P) 251/95/TD dated 25-10-1995 Government have reduced registration fee from 2% to 1% for mortgaging the documents for securing agricultural loans through Co-operative Societies and housing loans through Housing co-operative Societies up to two lakhs. But the registration fee for the release documents of the loans has not been reduced from 2% to 1%. So many representations have been received from the public on this issue. Government have examined the issue in detail and has decided to reduce the registration fee from 2% to 1% for the release deed executed for securing agricultural loans through Co-operative Societies and Housing loans through Housing Co-operative Societies up to Rs.2 lakhs.

The notification is intended to achieve the above object.

Documents executed by Co-operative Societies of SC and ST

S.R.O.No. 1194/2000 :- In exercise of the powers conferred by clause (a) of sub section (1) of Section 9 of the Kerala Stamp Act 1959 (Act 17 of 1959) the Government of Kerala, being of opinion that it is necessary in public interest so to do, hereby remit the stamp duty with which the documents to be executed by the Co-operative Societies of the Scheduled Castes and Scheduled Tribes for their business purpose are chargeable under the said Act.

G.O.(P) No.177/2000/TD dated 21-12-2000 in K.G.Ex. dated 28-12-2000

Documents executed by Co-operative Societies of SC and ST

S.R.O.No. 116/2004 :- In exercise of the powers conferred by clause (a) of sub section (1) of Section 9 of the Kerala Stamp Act 1959 (Act 17 of 1959), the Government of Kerala, being of opinion that it is necessary in the public interest so to do, hereby remit the stamp duty with which, the mortgage deeds to be executed in favour of Commercial Banks, Co-operative Banks and Regional Rural Banks by the beneficieries of the Swarnajayanthi Shahri Rozgar Yojana (S.Y.S.R.Y) scheme for availing loans upto Rs.25,000/- (Rupees twenty five thousand only), are chargeable under the said Act.

G.O.(P) No.15/2004/TD dated 2-2-2004

OTHER NOTIFICATIONS AND CIRCULARS

Government of Kerala

ABSTRACT

P.W.D. Centage charges-Exemption from payment of Centage charges

for the Construction of buildings sponsored by the Harijan, Girijan Co-operative Societies-Sanctioned-Orders issued.

Public Works (G) Department

G.O.MS.123/83/W Trivandrum,25-10-1983

Read: **1. G.O.P.239/76/PW dated 5-11-76**

2. Petition dated 5-8-82 from the Secretary, Harijan Welfare Multipurpose Co-operative Society, Nettoor P.O.

3. Letter No B7-59651-82 dated 14-12-82 from the Chief Engineer (B & R)

4. Letter No. D3/1022/83/L.Dis. dated 21-1-83 from the Director of Tribal Welfare.

5. Letter No.HG (3) 7918/83 dated 9-3-83 from the Registrar of Co-operative Societies.

ORDER

In the petition read above the Secretary, Harijan Welfare Multipurpose Co-operative Society Ltd. Nettoor, has requested to exempt from payment of Centage charges to the Public Works Department for supervision of construction of their buildings as such buildings are constructed by the said Society with the Grant sanctioned by Government.

In G.O.239/76/PW dated 5-11-76 prescribing the rates of Centage charges it has also been specified that on fees for scrutiny of plans and estimate will be realised in respect of building proposed to be constructed by loans/grants from Government for the Housing scheme of Harijan Welfare Department.

In the letter read as 3rd paper above the Chief Engineer (B & R) has recommended the proposal stating that the Girijan Societies may also be exempted from payment of Centage charges as there are no separate rules in this regard. The Registrar of Co-op. Societies and the Director of Tribal Welfare have also recommended to exempt all the Harijan and Girijan Co-op. Societies from payment of Centage charges to the PWD.

Government have considered the proposal in detail and are pleased to exempt all the Harijan Girijan co-operative societies from payment of Centage charges

due to the Public Works Department for the preparation and scrutiny of plans and estimate, supervision of construction and for issue of valuation charges of the building proposed to be constructed by the said societies with Government grant.

By order of the Governor
Mary Miranda
Deputy Secretary

കേരള സർക്കാർ

നമ്പർ 2959/സി.ബി.2/84/കൃഷി കൃഷി (സഹകരണ ബി) വകുപ്പ്
തിരുവനന്തപുരം 31–8–1985

ഗവൺമെന്റ് സെക്രട്ടറി

സെക്രട്ടറി
സർക്കിൾ കോ –ഓപ്പറേറ്റീവ് യൂണിയൻ
കണ്ണൂർ

വിഷയം: **സഹകരണ കൺസ്യൂമർ സ്റ്റോറുകൾ നടത്താനുള്ള ലൈസൻസിന് അപേക്ഷിക്കുമ്പോൾ കോർട്ട് ഫീസ് മുദ്ര പതിക്കുന്നതിൽ നിന്ന് ഒഴിവാക്കമെന്ന ആവശ്യം**

പരാമർശം: **താങ്കളുടെ 25–4–83 ലെ കത്ത്**

മേൽ സൂചിപ്പിച്ച വിഷയം സംബന്ധിച്ച് കണ്ണൂർ സർക്കിൾ കോ–ഓപ്പറേറ്റീവ് യൂണിയൻ 13–4–83 ൽ പാസ്സാക്കിയ പ്രമേയം സംബന്ധിച്ച് മറുപടി താഴെ കുറിക്കുന്നു.

1984 ഫെബ്രുവരി 14–ാം തീയതിയിലെ ജി.ഒ.(പി) 1–ാം നമ്പർ ഗവൺമെന്റ് ഉത്തരവിലെ (ഒഴിവാക്കൽ) എന്ന തലക്കെട്ടിലെ 11–ാം ഖണ്ഡിക പ്രകാരം പ്രസ്തുത ഖണ്ഡികയിലെ (എ) മുതൽ (എച്ച്) വരെ ഖണ്ഡങ്ങളിൽ പറയുന്ന സംഗതികൾക്കൊഴികെ സംസ്ഥാനത്തെ സഹകരണ സംഘങ്ങൾ സംസ്ഥാന ഗവൺമെന്റിന്റെ ഏതെങ്കിലും ഓഫീസുകളിൽ സമർപ്പിക്കപ്പെടുന്ന അപേക്ഷകളേയും ഹർജികളേയും കേരള കോർട്ട് ഫീസ് വ്യവഹാര സലയും ആക്ട് 2–ാം പട്ടിക 10–ാം ആർട്ടിക്കിൾ പ്രകാരം വസൂലാക്കാവുന്ന ഫീസിൽ നിന്ന് ഒഴിവാക്കപ്പെട്ടിട്ടുണ്ട്. ആയതിനാൽ സംസ്ഥാനത്തെ സഹകരണ സംഘങ്ങൾ കൺസ്യൂമർ സ്റ്റോറുകൾ നടത്താനുള്ള ലൈസൻസിനായി സമർപ്പിക്കപ്പെടുന്ന അപേക്ഷകളിൻമേൽ കോർട്ട് ഫീസ് സ്റ്റാമ്പ് പതിക്കേണ്ടതില്ല.

താങ്കളുടെ വിശ്വസ്തൻ
എസ്.രാജഗോപാലാചാരി
അണ്ടർ സെക്രട്ടറി
സെക്രട്ടറിക്കുവേണ്ടി

നമ്പർ ആർ. ആർ. 3 – 6199/98 രജിസ്ട്രേഷൻ ഇൻസ്പെക്ടർ ജനറൽ ഓഫീസ്, തിരുവനന്തപുരം, തീയതി 27–02–1999

രജിസ്ട്രേഷൻ ഇൻസ്പെക്ടർ ജനറൽ

സഹകരണസംഘം രജിസ്ട്രാർ
തിരുവനന്തപുരം

സർ,

വിഷയം : **സഹകരണസംഘങ്ങൾക്കുള്ള രജിസ്ട്രേഷൻ ഫീസ് ഒരു ശതമാന മായി കുറച്ച ആനുകൂല്യം എടച്ചേരി സബ് രജിസ്ട്രാഫിസിൽ നിന്നും അനുവദിക്കുന്നില്ല എന്നത് സംബന്ധിച്ച്**

സൂചന : **1. താങ്കളുടെ 08–01–98 ലെ സി.പി. 1/54938/97–ാം നമ്പർകത്ത്**
2.നികുതി 'ഇ' വകുപ്പിലെ 21–10–1998, 14–12–1998 ലെ 20806/ഇ3/98/നി.വ. നമ്പർ കത്ത്

സൂചന 1 ലേയ്ക്ക് താങ്കളുടെ ശ്രദ്ധ ക്ഷണിക്കുന്നു. സൂചന പ്രകാരം താങ്കൾ അയച്ച കത്തിലെ വിഷയം സംബന്ധിച്ച് സ്പഷ്ടീകരണ ഉത്തരവിനു വേണ്ടി ഈയാഫീസിൽ നിന്നും സർക്കാരിലേക്ക് എഴുതിയിരുന്നതും സൂചന (2) പ്രകാരം സർക്കാരിൽ നിന്നും സ്പഷ്ടീകരണ ഉത്തരവ് ലഭിച്ചിട്ടുള്ളതുമാണ്. സഹകരണ സംഘങ്ങൾ മുഖേന അനുവദിക്കുന്ന ''കാർഷിക വായ്പകൾക്കും ഭവന നിർമ്മാണ വായ്പകൾക്കും'' മാത്രമേ രജിസ്ട്രേഷൻ ഫീസ് ഇളവ് സർക്കാർ അനുവദിച്ചിട്ടു ള്ളുവെന്നും ടി സംഘങ്ങൾക്ക് അനുവദിക്കുന്ന കാർഷികേതര വായ്പകൾക്ക് ടി ആനുകൂല്യം ബാധകമല്ല എന്നുമാണ് ഉത്തരവിൽ സർക്കാർ വ്യക്തമാക്കിയിട്ടുള്ള ത്. ടി സർക്കാർ ഉത്തരവിന്റെ പ്രതി അറിവിലേക്കായി ഇതോടൊപ്പം ഉള്ളടക്കം ചെയ്യുന്നു. ടി കത്തിന്റെ കോപ്പി എല്ലാ സബ് രജിസ്ട്രാർമാർക്കും ആവശ്യമായ നടപടിക്കായി അയച്ചു കൊടുത്തിട്ടുള്ള വിവരവും അറിയിക്കുന്നു.

താങ്കളുടെ വിശ്വസ്തൻ
രജിസ്ട്രേഷൻ ഇൻസ്പെക്ടർ ജനറലിനു വേണ്ടി

നമ്പർ : 20806/ഇ3/98/നി.വ. നികുതി 'ഇ' വകുപ്പ്
തിരുവനന്തപുരം, തിയതി 21–10–1998

പ്രിൻസിപ്പൽ സെക്രട്ടറി

രജിസ്ട്രേഷൻ ഇൻസ്പെക്ടർ ജനറൽ
തിരുവനന്തപുരം

സർ,

വിഷയം : **സഹകരണസംഘങ്ങൾക്കുള്ള – രജിസ്ട്രേഷൻ ഫീസ് ഒരു ശതമാ നമായി കുറച്ച് ആനുകൂല്യം – അനുവദിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1.. താങ്കളുടെ 29–09–1998 ലെ ആർആർ 3–6199/98–ാം നമ്പർ കത്ത്**

2. 25–10–1995 ലെ ജി.ഒ. (പി) നമ്പർ 251/95/ നി.വ. നമ്പർ സർക്കാർ ഉത്തരവ്

3. 28–03–1996 ലെ സർക്കാരിന്റെ 27221/ഇ3/95/നി. വ. നമ്പർ കത്ത്

സൂചനകളിലേക്ക് താങ്കളുടെ ശ്രദ്ധ ക്ഷണിക്കുന്നു. സംസ്ഥാനത്തെ സഹകരണസംഘങ്ങളും, സഹകരണ ബേങ്കുകളും അനുവദിക്കുന്ന കാർഷിക വായ്പകൾക്കും ഭവന നിർമ്മാണ സഹകരണ സംഘങ്ങൾ അനുവദിക്കുന്ന ഭവന നിർമ്മാണ വായ്പകൾക്കും രണ്ട് ലക്ഷം രൂപ വരെയുള്ള തുകക്ക് രജിസ്ട്രേഷൻ ഫീസ് 2% ൽ നിന്നും ഒരു ശതമാനമായി കുറച്ചുകൊണ്ട് സൂചന 2–ം, 3–ം പ്രകാരം സർക്കാർ ഉത്തരവായിരുന്നു. എന്നാൽ ടി ആനുകൂല്യം ടി സംഘങ്ങൾ അനുവദിക്കുന്ന കാർഷികേതര വായ്പകൾക്കും ബാധകമാക്കാമോ എന്ന് രജിസ്ട്രേഷൻ ഇൻസ്പെക്ടർ ജനറലിന്റെ സൂചന 1 ലെ കത്തിൽ ആവശ്യപ്പെട്ടിരിക്കുന്നതിനാൽ താഴെ പറയുന്ന കാര്യങ്ങൾ ശ്രദ്ധയിൽപ്പെടുത്തുന്നു.

സൂചന 2, 3 എന്നിവയിൽ പ്രതിപാദിച്ചിട്ടുള്ള പ്രകാരം ടി സംഘങ്ങൾ മുഖേന അനുവദിക്കുന്ന കാർഷിക വായ്പകൾക്കും ഭവനനിർമ്മാണ വായ്പകൾക്കും മാത്രമേ രജിസ്ട്രേഷൻ ഫീസ് ഇളവ് സർക്കാർ അനുവദിച്ചിട്ടുള്ളു. "ടി സംഘങ്ങൾ അനുവദിക്കുന്ന കാർഷികേതര വായ്പകൾ ഈ ആനുകൂല്യം ബാധകമല്ല." മേൽ പരാമർശത്തിലെ ഉത്തരവുകളുടെ അടിസ്ഥാനത്തിൽ മാത്രം ആവശ്യമായ രജിസ്ട്രേഷൻ ഫീസ് ഇളവ് അനുവദിക്കുവാൻ എല്ലാ സബ്രജിസ്ട്രാർമാർക്കും കർശനനിർദ്ദേശം നൽകുവാൻ താൽപ്പര്യപ്പെടുന്നു.

താങ്കളുടെ വിശ്വസ്തൻ
റെയ്ചൽ ജോർജ്
അഡീഷണൽ സെക്രട്ടറി
പ്രിൻസിപ്പൽ സെക്രട്ടറിക്കു വേണ്ടി

RR.4. 20631/2004 Office of the Inspector General of Registration, Kerala, Trivandrum – 35, Dated 18.12. 2004

CIRCULAR

Sub **: Implementation of the Provision of the Kerala Co-operative Laws (Amendment) Act 2003 creation of Gehan Instructions regarding**

Ref **: 1. Notification No.8876/Leg B2/02 Law dated 23.6.04**
2. G.0.(P) N0. 310/2004/Co-op., dated 22.11.2004

The Kerala Co-operative Laws (Amendment) Act 2003 passed by the State Legislature has received the assent of the president of India and it will prevail in the State not withstanding its repugnancy with the Indian Registration Act. It is informed by the State Government that after Section 36 of Kerala Co-operative Societies Act 1969 (21 of 1969) a new Section 36 A shall be inserted and that Section 10 (4) and 10(5) of the Kerala State Co-operative Agricultural and Rural Development Bank Acts shall be substituted and can be given effect without any amendment of

Indian Registration Act and the said provisions are binding on the Registering Officers but certain amendments were to be made in the Registration Rules (Kerala) 1958 and as per the reference cited above to remove all hindrance the same was amended.

In the above circumstances you are directed to implement the provision of the Kerala Co-operative Laws (Amendment) Act 2003 and the rules referred above. The following provision are to be adopted in the implementation of this Act.

1.Buttfile of the size 15"x20" will be provided by the Bank/Society (as on interim measure) for pasting the Gehan.

2. The Butt file volume shall be opened as soon as the first copy of the Gehan to be filed in it, is received and it shall be prefaced with a title page in which shall be entered the following particulars.

(a) The number and description of the Book
(b) Name of the Office
(c) Volume Number
(d) Number and year of the first copy of the Gehan in the volume and the date of filing

These entries in the title page should be attested by the Registering Officer with his signature and date immediately after the volume is opened.

3. The Butt file volume is of Book I and Gehan Volume. Number is to be assigned as of Book I File Volume (Memo Volume).

4. A Butt file volume will comprise of 250 Gehan in pages 1 to 500. Each file volume shall continue in use till the maximum of pages prescribed is reached. A fresh file volume need not be opened at the commencement of each calendar year.

5. Each Butt file consists of 250 small and 250 large leaves. The copy of the Gehan is to be pasted in the smaller leaves and consecutive numbers are to be assigned as of Book I File volume.

6. The format of the Gehan will be as per G.O.(P) No.310/2004/Co-op. dated 22. 11.04 in English along (Ref. 2nd cited) and will be compared and attested by the Managing Director/General Manager/Secretary/Branch Manager of the Bank/Society before forwarding the same to the Sub Registrar for filing.

7. The Gehan will be presented in person alone, by special messenger with covering letter of the Bank/Society MD/GM/Secretary/Branch Manager.

8. The Gehan is to be assigned separate number and 'G' may be prefixed G.1/2004 etc. The Gehan number shall however terminate at the year end. The number and year of the Gehan shall be entered at the top of the document in the space provided.

9. A separate blank register should be maintained for the entries of the Gehan in the appendix attached till the printed register are supplied. The authorised agent should sign with date in token of having received the duplicate copy of the Gehan.

10. The Gehan presented shall be returned on the same day itself and on no account the Gehan should be kept pending for indexing.

11. The Gehan will be presented in duplicate out of which one copy to be returned, after noting the assigned document number and date of filing.

12. Gehan pertains to Kerala State Agricultural and Rural Development Bank. Primary Co-operative Agricultural Development Banks, Kerala State Co-operative Bank, District Co-operative Banks, Primary Agricultural Credit Societies and Primary Housing Societies.

13. The Gehan so created shall be indexed as stipulated in the Registration Manual so that the charge of the property so made shall find a place in the Encumbrance Certificate.

14. The Gehan created will be presented to the Registering Officer, the local limits of whose jurisdiction the whole or any part of the property to which the General relate is situate within a maximum period of thirty days from the date of its creation or execution and the time limit shall be strictly adhered to.

It is to be borne in mind that the intention of the implementation of the Kerala Co-operative (Laws) (Amendment) Act 2003 is to minimise the Registration process and to avoid undue delay in sanctioning that loan to the General Public. No room for any complaint shall be given by the Registering Officers and other subordinates in this regard.

Inspector General of Registration

Copy to : All Deputy Inspector General of Registration,
District Registrars (General & Audit)

The District Registrars are requested to communicate this circular and the Gazette Notifications enclosed to the subordinates and report compliance.

APPENDIX

Gehan No. (Pre fixing G)	Name of the Bank/ Society	Date of Creation/ Execution of the Gehan	Date of presentation and filing with S.R's initial.	Date of return of the Gehan	Signature of the party with date (as a token of having received a duplicate copy of the Gehan)
(1)	(2)	(3)	(4)	(5)	(6)

STATE AID

537-561

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CHAPTER VI
STATE AID TO CO-OPERATIVE SOCIETIES

S42. Direct partnership of Government in societies:- (1) The Government may subscribe directly to the share capital of a society with limited liability.

(2) Notwithstanding any agreement to the contrary, the Government shall not be entitled to a dividend on the shares of any such society at a rate higher than that at which such dividend is payable to any others share holder of the society.

S43. Indirect partnership of Government in societies:- The Government may provide moneys to a society for the purchase of shares in other societies with limited liability.

S44. Principal State Partnership Fund:- (1) An apex society which is provided with moneys by the Government under section 43 shall, with such moneys, establish a fund to be called the *'Principal State Partnership Fund"*.

(2) An apex society shall utilise the Principal State Partnership Fund for the purpose of:-

(a) directly purchasing shares in other societies with limited liability; or

(b) providing moneys to a central society to enable that society to purchase shares in other societies with limited liability (hereinafter in this Chapter referred to as primary societies) or;

(c) making payments to the Government in accordance with the provisions of this Chapter,

and for no other purpose.

S45. Subsidiary State Partnership Fund:- (1) A central society which is provided with moneys by an apex society from the Principal State Partnership Fund shall, with such moneys, establish a fund to be called the *'Subsidiary State Partnership Fund"*.

(2) A central society shall utilise the Subsidiary State Partnership Fund for the purpose of-

(a) purchasing shares in primary societies; or

(b) making payments to the apex society in accordance with the provisions of this Chapter,

and for no other purpose.

S46. Approval of Government for purchase of shares :- No shares in society shall be purchased from the moneys in the Principal State Partnership Fund or

the Subsidiary State Partnership Fund except with the previous approval in writing of the Government.

S47. Liability to be limited in respect of certain shares :- Where any shares in a society are purchased by-

(a) the Government; or

(b) the apex society or a central society from the Principal State Partnership Fund or the Subsidiary State Partnership Fund, as the case may be, the liability in respect of such shares shall, in the event of the society being wound up, be limited to the amount paid in respect of such shares.

S48. Restrictions on amount of dividend :- An apex society which has purchased shares in other societies from the moneys in the Principal State Partnership Fund and a central society which has purchased shares in primary societies from the moneys in the Subsidiary State Partnership Fund shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other share holders of that society.

S49. Indemnity of apex and central societies :- (1) If a society in which shares are purchased from the moneys in the Principal State Partnership Fund is wound up or is dissolved, the Government shall not have any claim against the apex society which purchased the shares in respect of any loss arising from such purchase; but the Government shall be entitled to any moneys received by the apex society in liquidation proceedings or on dissolution, as the case may be.

(2) If a society in which shares are purchased from the moneys in the Subsidiary State Partnership Fund is wound up or is dissolved, neither the Government nor the apex society shall have any claim against the central society which purchased the shares in respect of any loss arising from such purchase; but the apex society shall be entitled to any moneys received by the central society in liquidation proceedings or on dissolution, as the case may be and such moneys shall be credited to the Principal State Partnership Fund.

S50. Disposal of share capital and dividend, etc :- (1) All moneys received by an apex society in respect of shares of other societies purchased from the moneys in the Principal State Partnership Fund on redemption of such share or by way of dividends or otherwise shall be credited to that Fund.

(2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the Subsidiary State Partnership Fund on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that fund and then transferred to the apex society which shall

credit them to the Principal State Partnership Fund.

(3) All moneys referred to in sub-section (1) or sub-section (2) shall, notwithstanding that the shares stand in the name of the apex society or the central society, as the case may be, be paid to the Government.

(4) Save as provided in sub-section (3), the Government shall not be entitled to any other return on the moneys provided by it to an apex society under Section 43

(5) Any amount to the credit of the Principal State Partnership Fund or the Subsidiary State Partnership Fund and the investments thereof shall not from part of the assets or liabilities of the apex society or central society, as the case may be. The balance sheet of any such society shall separately show the amounts to the credit of the Principal State Partnership Fund or the Subsidiary State Partnership Fund to the investments thereof, as the case may be.

S51. Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding up of apex or central society :- (1) If an apex society which has established a Principal State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that fund shall be paid to the Government.

(2) If a central society which has established a Subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be credited or paid, as the case may be, to the Principal State Partnership Fund from which it received moneys under clause (b) of sub-section (2) of Section 44.

S52. Agreement by Government and apex societies :- Subject to the foregoing provisions of this Chapter,

(a) the Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in Section 43;

(b) an apex society may, with the previous approval of the Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of Section 44.

S53. Order forms of State aid to societies :- Notwithstanding anything contained in any law for the time being in force, the Government may-

(a) give loans or make advances to societies;

(b) guarantee the repayment of principal and payment of interest on debentures issued by a society;

(c) guarantee the repayment of share capital of a society and dividends thereon at such rates as may be specified by the Government;

(d) guarantee the repayment of principal and payment of interest on loans and advances to a society;

(e) guarantee the repayment of deposits received by the society and payment of interest on such deposits; and

(f) give financial assistance in any other form, including subsidies, to any society.

S54. Provisions of Section 43 to 52 to override other laws :- The provisions of Sections 43 to 52 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

CASE LAWS

Guarantee commission Constitution of India - Article 226 – Government cannot act against the terms and conditions stipulated by NABARD and approved by the Government – Claiming commission for the guarantee provided by the Government after agreeing that commission will not be levied is arbitrary.

A reading of Ext.P1 and the Scheduled I attached there to will clearly show that one of the conditions stipulated by NABARD for extending refinance assistance was that the State Government shall guarantee the loans fully and unconstitutionally in respect of repayment of the principal and payment of interest therein and that the State Government shall not charge guarantee fee/commission in respect of guarantees to be provided by it under the scheme. sGovernment has acted against the terms and conditions stipulated by NABARD, which was approved by the Government by Ext.P4 order, The Government cannot now turn round and take a stand that they are, entitled to levy commission for the guarantee provided by it.

1999 (2) KLT 310 = 1999 (1) KLJ 941 DB Government of Kerala v/s Palghat District Co-operative Rubber Marketing Society Ltd

If there was a clear promise by the State and if on that promise a person has acted upon, the State cannot resile from the promise at least during the period when the promise was there Promissory Estoppel - On the facts of this case as correctly found by the learned single Judge there was a clear promise of reimbursement by the Corporation and on that promise petitioner company was acted upon to its detriment without collecting sales-tax with the hope that as promised in undertaking if finally assessed Corporation will reimuurse the same. But, reimbursement was denined. Withdrawal of the above promise cannot be done retrospectively as the petitioner company had already acted upon and rule of promissory estopel is correctly applicable in this case. *In this judgment* **1947 KB 13 Central London Property Trust ltd v/s High Trees House Ltd** *and* **1997 (7) SCC 251 Pawan Alloys & Casting Pvt. Ltd v/s U.P. State Electricity Board and others** *are followed.*

1998 (2) KLT 1087 Kerala State Beverages Corporation v/s Mc Dowell & Co. Ltd

Denial of the subsidy with retrospective effect after investment is

illegal and unjust Promissory Estoppel - Scheme for outright grant of subsidy for industrial units set up in backward Districts - Denial of the subsidy with retrospective effect after investment is illegal and unjust-Constitution of India, Art.226.

Central Government and the State Government together had promised to grant subsidy to the extent of 25% (15%-10%) on the investment of goods carriage. In pursuance of that scheme the petitioner purchased the goods carriage in January, 1988, when the scheme was in force. But the concession was withdrawn in September, 1988. Therefore, the denial of subsidy to the petitioner on the investment prior to September, 1988 is illegal land unjust. *In this judgment* **AIR 1991 Kant 52 Garments Inernational Pvt. Ltd v/s Union of India** *and* **AIR 1993 Delhi 321 Old Villages Industries Ltd v/s Union of India** *and relied on and* **AIR 1987 SC 590 Pournami Oils Mills v/s State of Kerala** *are referred to.*

1998 (2) KLT 163 Arya Durga Industries v/s District Industries Centre

Superventing public equity or public interest would override individual enquity or interest Promissory Estoppel - When can Government resile from its representation or promise - Superventing public equity or public interest would override individual enquity or interest - It is for the Court to be satisfied on a balance of equity or public interest that a superior public interest exists.

It is the Court which has to determine whether the Government should be held exempt from the liability of the 'promise' or 'representation'. The Government is competent to resile from a promise even if there is no manifest public interest involved, provided, of course, no one is put in any adverse situation which cannot be rectified. Even where there is such overriding public interest, it may still be withiin the competence of the Government to resile from the promise on giving reasonable notice which need not be a formal notice giving the promisee a reasonable opportunity of resuming his position, provided, of course, it is possible for the promisee to restore the status quo ante. If, however, the promisee cannnot resume his position, the promise would become final and irrevocable.

1997 (2) KLT SN 16 P 15 SC FB Shrijee Sales Corporation v/s Union of India

Government restricting the exemption granted to certain limits Promissory Estoppel - Scope of - Notification issued by the Governent on 11.4.79 granting exemption to small scale industrial units from payment of sales tax for a period of five years - Assessee setting up a small-scale industrial unit on 9.6.80 in accordance with the Notification - Further notification issued by the Government on 29.9.80 restricting the exemption granted to 90% of the cumulative gross fixed capital investment of the unit - Asessee is entitled to total exemption from payment of sales tax for a period of five years and the Government is estopped from collecting sales tax from the assessee for the said period.

When a man, by his words or conduct, has led another to believe that he may safely act on the faith of them and the other does act on them-he will not be allowed to go back on what he has said or done when it would be unjust or inequitable for him to do so; This is the embodiment of the principles of promissory estoppel distinctly different

from the cases of estoppel in the strict sense. If a Government notification about exemption from payment of tax stipulates or does not stipulate as to how long the exemption would remain in operation it would be open to the Government o withdraw the same or to reduce the extent of exemption by a subsequent notification does not take effect from an anterior date. In this case,the total exemption as per first notification was available in respect of the small scale industrial units set up prior to October 21, 1980. That being so the assessments/revised assessments as against the petitioner for the aforesaid years are without any authority of law. Those proceedings are therefore, liable to be set aside. *In this judgment* **AIR 1987 SC 590 = 1987 (65) STC 1 Pournami Oil Mills v/s State of Kerala and another** *is followed.*

1997 (1) KLT 872 = ILR 1997 (2) Ker 636 M/s Poornima v/s Sales Tax Officer

Redistribution of pump sets through two Co-operative Societies

Articles 14 and 19 - Constitutional validity of circular of Kerala Government for redistribution of pump sets under their scheme only from two Co-operative Societies and when they are financed at subsidised rates-Impugned circular does not violate Art. 14-Government selecting certain dealers as approved dealers does not amount to listing others on black list-A citizen has no fundamental right to insist upon the Government or any other individual for doing business with him.

Fundamental right guaranteed under Art. 19 of the Constitution are not absolute but the same are subject to reasonable restriction to be imposed against enjoyment of such rights. Such reasonable restriction seeks to strike a balance between the freedom guaranteed by any of the clauses under Art. 19(1) and the social control permitted by the clauses (2) to (6) under Art. 19. It may be indicated that although a citizen has a fundamental right to carry on a trade or business, he has no fundamental right to insist upon the Government or any other individual for doing business with him. Any individual has got a right to enter into contract with a particular person or to determine person or persons with whom or it will deal. The impugned circular does not offend Art. 14 of the Constitution. The direction contained in said circular cannot be held to be vitiated being arbitrary, capricious or unreasonable. It cannot be reasonably contended that if the Government selects a dealer as its approved dealer, the same may mean that all the other dealers have been black listed. The question of black listing does not arise because it is nobody's case that all other dealers were previously approved dealers of the Government but by the impugned circular, they have been suddenly stripped of such status without affording them an opportunity of being heard.

1997 (1) KLT 388 = 1997 (9) SCC 495 Krishnan v/s Government of Kerala

Right to make an assignment or grant and to relax or modify the same

General Clauses Act, 1987 - An authority which has the right to make an assignment or grant has also the power to relax or modify any of the conditions of the assignment of grant.

ILR 1995 (2) Ker 705 = AIR 1995 Ker 209 = 1995 (1) KLJ 387 Parent Teacher Association, Maharaja's College and others v/s State of Kerala and others

CIRCULARS

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നമ്പർ സി.പി. (3) 35174/00 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്, തിരുവനന്തപുരം, തീയതി 15.07.2002

സർക്കുലർ നമ്പർ 25/2002

വിഷയം : **സഹകരണം പ്രാഥമിക സംഘങ്ങൾക്ക് കാർഷികോൽപ്പാദന ചിലവിനത്തിൽ നൽകുന്ന സബ്സിഡി വിതരണത്തിലെ ക്രമക്കേടുകൾ സംബന്ധിച്ച്**

സൂചന : **ഈ ആഫീസിലെ 19.11.2001 ലെ വി.(2)39180/200 നമ്പർ കത്ത്**

പ്രാഥമിക സഹകരണ സംഘങ്ങളിൽ നിന്നും സംഘാംഗങ്ങളായ കൃഷിക്കാർ വായ്പയെടുത്തു കൃഷി ചെയ്ത് കാർഷികോൽപ്പിദനം വർദ്ധിപ്പിക്കുവാൻ ഉണ്ടാകുന്ന ചെലവുകൾ നേരിടുവാൻ സർക്കാർ അഗ്രിക്കൾച്ചറൽ പ്രൊഡക്ഷൻ കോസ്റ്റ് എന്ന പേരിൽ സബ്സിഡി അനുവദിക്കുകയും പ്രസ്തുത സബ്സിഡി വിതരണത്തിൽ ക്രമക്കേടുകൾ ഉളളതായി രജിസ്ട്രാറുടെ ശ്രദ്ധയിൽപ്പെട്ടതിനെ തുടർന്ന് താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. അർഹമായ ക്ലയിമിനു വേണ്ടി സർക്കാരിനോട് അപേക്ഷിക്കുന്നുവോ എന്നും അത് ലഭിക്കുന്നുണ്ടോ എന്നും ഭരണസമിതി പരിശോധിക്കേണ്ടതാണ്.

2. പുതിയ ക്ലയിമിനുളള പ്രൊപ്പോസൽ സമർപ്പിക്കുമ്പോൾ മുൻപുളള തുക യഥാർത്ഥ ഉപഭോക്താക്കൾക്ക് ലഭ്യമായിട്ടുണ്ടോ എന്ന് ഭരണസമിതി ഉറപ്പ് വരുത്തേണ്ടതാണ്.

3. വകുപ്പ് ഉദ്യോഗസ്ഥർ ക്ലയിം ശുപാർശ ചെയ്യുമ്പോൾ മുൻപുണ്ടായിരുന്ന തുകയുടെ വിനിയോഗം പരിശോധിച്ച് ഉറപ്പുവരുത്തേണ്ടതാണ്.

4. ആഡിററർ സംഘം കണക്കുകൾ പരിശോധിക്കുമ്പോൾ ഇത് പ്രത്യേകം പരിശോധിക്കേണ്ടതും ആഡിററ് റിപ്പോർട്ടിൽ ഇത് സംബന്ധിച്ച് പരാമർശം ഉൾപ്പെടുത്തേണ്ടതുമാണ്.

5. ഈ തുക സംഘം കണക്കിൽ പ്രത്യേകം അക്കൗണ്ടായി രേഖപ്പെടുത്തി ഉപഭോക്താക്കളെ പ്രത്യേകമായി അറിയിച്ച് ഈ തുക വിതരണം ചെയ്യേണ്ടതാണ്.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

No. Fin.A (2) 32400/2002 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 23.09.2002

CIRCULAR No. 34/2002

Sub: **Co-operative Department-Government dues-Arrears of Loans, retirement of shares capital contribution-Audit fees, cost of Staff/ Audit cost, dividend and Guarantee Commission due from Co-operative Institutions - intensive collection drive during the period from 1.10.2002 to 30.11.2002 - instructions issued**

Ref:

The State Government is providing substantial financial assistance by way of loan, share capital contribution, etc; to co-operative for implementing various development schemes. Necessary rules have also been framed for repayment of loans, retirement of share capital contribution payment of penal interest for belated repayment of dues to Government. The arrears due to Government towards loans, retired protion of share (direct participation), Audit fees and cost of staff posted Under Rule 156, Part 1, Kerala Service Rules have increased considerably in the past few years

due to various reasons. The negligence on the part of department officers in pursuading the societies to remit Government dues is one of the reasons for the accumulation of heavy arrears. It has been brought to my notice that the Assistant Registrars (General) in the Taluks are not taking proper action to see that the dues are remitted by societies promptly. The Joint Registrars (General) are also not seen taking any effective steps for collection of arrears of Government dues. The Joint Registrar (Genral) and Assistant Registrars (General) are personally responsible for collection of above said Government dues.

Taking to accounts of all these facts it has been resolved to launch a special collection drive during the period from 1.10.2002 to 30.11.2002 for the collection of Government dues.

The Joint Registrar (General) will convene the conference of Assistant Registrars (General) and Inspectors in the Circles and appraise them of the necessity and importance in the collection of Government dues especially since the arrear position has reached an alarming stage. The target fixed for collection drive period is 100% of the outstanding arrears of Government dues as on 30.09.2002. On the basis of the above target Joint Registrars (General) shall fix the tagret for the Assistant Registrars (General) each cirdo under their control and the assistant Registrars (General) in turn shall fix the target for Unit Inspectors. The Deputy Registrars (Administration) and Assistant Registrars (Planning) in the Office of the Joint Registrars (General) will be in-charge of collection Drive. The Joint Registrars should be in overall charge of the operation in the district and he may provide the maximum possible facilities for the collection drive. Statement showing the progress achieved in special collection drive should be sent by the Joint Registrar (General) to the Registrar of Co-operative societies on or before 20.12.2002 in proforma No. A to F (Specimen copy enclosed) without fail.

As regards the collection of cost of Auditors Under Rule 156, Part 1, K.S.R. , it is noticed that there are arrears pending collection in various districts eventhough the cost of audit should be collected in advance. The Joint Registrars (Audit) in the districts as well as Assistant Registrars (Audit) in Taluks are personally responsible for the collection of Government dues in this regard from the Co-operative Institutions in the districts including Apex Institutions. The Joint Registrars (Audit) should see that 100% of the Arrears are collected and advance collection are made as per the standing orders. The Joint Registrars (Audit) should furnish the progress achieved during the special collection drive period in proforma C, D and E (Specimen copy enclosed) to the Registrar of Co-operative Societies on or before 20.12.2002 without fail.

The time-limit fixed for the submission of progress of statement should be strictly adhered to. Recepit of the circular should be acknowledged.

J. Raveendra Raju
Registrar of Co-operative Societies in Charge

No. Office of the Registrar of Co-operative Societies,
Thiruvananthapuram, Dated 1-8-2003

CIRCULAR No. 45/2003

Sub **: Department of Co-operation-proper maintenance of Loan Ledgers, Prompt realisation of loan instalments and interest thereon etc. and proper preparation of DCB Statements - Instructions - issued - regarding**

Read **: 1. Circular No.26/80 dated 4.8.1980 of the Registrar of Co-operative Societies.**
2. Circular No.38/84 dated 1.9.1984 of the Registrar of Co-operative Societies.
3. Circular No. 30/87 dated 2.7.1987 of the Registrar of Co-operative Societies.
4. Circular No. 33/87 dated 17.7.1987 of the Registrar of Co-operative Societies.
5. Circular No. 5/89 dated 30.1.1988 of the Registrar of Co-operative Societies.
6. Circular No. 29/90 dated 24.2.1990 of the Registrar of Co-operative Societies.
7. Circular No.33/93 dated 31.5.1993 of the Registrar of Co-operative Societies.
8. Circular No.12/99 dated 29.3.1999 of the Registrar of Co-operative Societies.
9. Government Circular No.43/2003/Fin.dated 12.6.2002.
10. D.O. Letter No. Fin.A.(1) 29232/2003 dated 11.7.2003 from the Registrar of Co-operative Societies.

Instructions regarding the importance and necessity of proper maintenance of loan ledgers, timely realisation of loan instalments and interest thereon, preparation of correct Demand Collection Balance Statement etc; were issued from time to time from this office. But it has been noticed that inspite of repeated instructions the loan ledgers are not being maintained properly in the offices of the Joint Registrars (General) and Assistant Registrars (General) and that adequate care has not been taken by most of the department officers for the prompt realisation of loan instalment and interest thereon. This is one of the main reasons attributed to the accumulation of huge arrears of loans and interest due to Government from Co-operative Societies. The slackness and indifference shown by many department officers in realising the loan instalments together with interest/penal interest had adversely affected the collection process.

The above mentioned sorry state of affairs in the matter of maintenance of loan ledgers and realisation of loan instalment together with interest had resulted in adverse observation from the Comptroller and Auditor General of India, Committee on Public Accounts etc. The observation in this regard contained in para 10.1.7 and 10.1.8 of the Report of the Comptroller and Auditor General for the year ended 31.3.1997 (Revenue Receipts) is extracted below for information and strict compliance.

1. Loan ledgers are the basic records of loans in which initial information such as sanction order, date of drawal, amount, rate of interest, other terms and conditions, particulars of repayment, balance amount etc., are to be noted. In the Department of Co-operation, in the case of loans to Primary Co-operative Societies/Banks, Assistant Registrars and in case of loans to District level and apex societies, Joint Registrars are responsible for recovery of loan. Loan ledgers are to be maintained in the offices of Assistant Registrars at Taluk level and Joint Registrars at district level.

2. Loan ledgers were not maintained properly either by the Joint Registrars or the Assistant Registrars whose offices were subjected to audit. The registers maintained by them did not contain details such as number and date of order sanctioning of loan, amount, rate of interest and other relevant information.

3. Details of remittances such as chalan number, date of remittance and amount remitted were not authenticated by any officer.

4. Instalments of principal, interest and penal interest due from the loanees were not worked out and demand notices issued one month in advance as required under the Kerala Financial Code.

5. The amounts shown in the loan ledgers maintained by the Assistant Registrars were not reconciled with that shown in the registers maintained by the Joint Registrars despite specific direction (July 1987) of the Registrar of Co-operative Societies.

6. Though the Joint Registrars were responsible to maintain the accounts and watch the recovery of the loan amount and interest due, the ledgers maintained by them didnot contain the details of loans issued to the Apex Societies and proper steps were not being taken by the Joint Registrars to recover the dues from Apex Societies.

7. Demand, Collection and Balance Statements are intended to indicate the exact position of the revenue due, collected and revenue outstanding during a particular period and serve as an instrument of internal control system. But the demand, collection and balance statements prepared by the departments under review did not depict the exact position and hence didnot serve the purpose for which it has been prepared.

Recommendations No,19 to 24 and 26 of the 47th Report of the Committee on Public Accounts Committee (2001-2004) are extracted below for information and strict compliance.

19. The Committee understands that Government sanction loans to Government Commercial Undertakings, Co-operative Societies and Private parties and interest

thereon is one of the sources of revenue to the State. The Committee notices that Government have to pay interest to various financial institutions from which funds are obtained for this purpose, as per the terms and conditions agreed upon with these institutions. The state, District and Taluk Level Offices of Industries, Co-operation and Agriculture Departments are empowered to sanction loans to the user Agencies. It is the responsibility of the officers aforesaid to see that the loans are repaid with interest according to the terms and conditions fixed. The committee notices that recovery of loans and interest thereon by the departments is not upto the mark at the loanees on various reasons.The Committee also notes the huge difference between the budget estimates and actuals during 1995-96 in the Agriculture Department and the steady decline of recovery from Rs. 328.48 lakhs in 1992-93 to Rs.0.62 lakh in 1995-96 when there was increase in the amount outstanding. It has come to the notice of the committee that the witness could not offer a reasonable reply for the heavy arrears in repayment of loan due from public sector and other undertakings, Co-operative Institutions and individuals. The Committee is of the view that one of the reasons for heavy arrears in repayment of loan is the absence of proper internal control mechanism to watch the repayment and realisation of interest receipt. Absence of suitable action on the part of the concerned Administrative Departments, laxity in the maintenance of records inability of the loanees to repay the amount etc. also hinder prompt recovery of loans. The Secretary, Finance (Expenditure) informed that though the Department issues circulars and orders in this regard, they lack effective follow up action. He also informed that the concerned Administrative Department has to take a key role in the matter. The Committee views the matter with serious concern and suggests that a separate centralised control mechanism should be evolved in the Finance Department for the co-ordination and effective monitoring of recovery of loans and its interest receipts to Government.

20. The Committee also urges all Administrative Department to observe the general instructions and conditions on which the loans are granted in accordance with the procedures contained in Chapter IX of Kerala Financial Code, Vol.I.

21. The Comittee finds that there is absolutely no justification for non-maintenances of records such as loan ledgers, DCB Registers etc: showing the details like sanctioning order, date of drawal, amount, rate of interest, particulars of repayment etc; relating to the loans sanctioned by the various levels of officers in the Industries, Co-operation and Agriculture Departments. The Committee also notes that the concerned /administrative Departments failed to maintain the important records properly and upto date. Even the limited records maintained do not consist of all the relevant details. The Committee is of the view that absence of proper and up dated records makes it difficult for timely recovery of loans. The Committee therefore, urges these Departments to maintain the records with all relevant details as required by the rules and regulations in this regard. The Committee also urges to initiate action

against those controlling officers of Administrative Departments who fail to maintain the records and registers in respect of loans and interest regularly and properly.

22. During evidence the Committee was informed that a major pare of the arrears pending relates to Public Sector Undertakings and that majority of them are running in loss. It was also stated that certain proposal for the onetime settlement have been submitted before ERC to recommendation. The Committee suggest to expedice action in the matter and desires to be furnished with the details regarding the action taken in cases which had been submitted before ERC. The Committee also urges the Departments (Industries, Co-operation and Agriculture) to chalk out some effective measures to clear the arrears pending with the various institutions and individuals.

23.The Committee notices the absence of proper internal Audit and reconciliation of loan ledgers in connection with the loans sanctioned by Government through the Administrative Departments even if it fails to issue demand notices to the loanees. The Committee urges the Government to give necessary instructions to ensure accounting and auditing proper and upto date in respect of ledgers, records etc; relating to Government loans.

24. The Committee was informed that the Administrative Departments did not supply sufficient details required by the Finance Department. The Committee desires the Administrative Departments to furnish all the relevant information relating to the loans sanctioned, as required by the Finance Department without any lapse in future.

26. The Committee notes the diversion of funds by the Institutions and individuals and non-remittance of the amount arguing the occurrence or loss. The Committee urges the Industries, Co-operation and Agriculture Department to ensure that the loanees utilise the amount sanctioned for the same purpose for which it was sanctioned.

It has been noticed that there are short demand of interest penal interest due to wrong/defective application of interest rate and wrong computation of interest. Timely demand notices are not being issued to the loanees one month in advances as contemplated in Chapter IX of Kerala Financial Code Volume I by most of the Joint Registrars as well as the Assistant Registrars (General).

As per the general instructions on repayment of loans, interest etc; issued by Government, amount paid by the loanee shall be adjusted first towards interest dues, if any, and the balance only shall be adjusted towards principal. It has been observed in Audit para 10.1.11 of the Report of Comptroller and Auditor General of India for the year ended 31.3.1997 (Revenue Receipt) that failure to follow these general instructions by the Co-operative Department had resulted in short realisation of principal and interest.

It is the responsibility of the Joint Registrars (General) concerned to watch the recovery of loans together with interest in the case of loans paid to District level, Regional Societies also. This is not being done by the Joint Registrars (General)

concerned. The concurrent Auditors of these institutions should furnish the details if any, as required by the Joint Registrars (General) in this regard.

In respect of loans sanctioned under NCDC schemes, effective rate of interest which are applicable only to prompt repayment, are seen applied for calculation of interest in respect of defaulters as well. In some cases, penal interest on defaulted loan are not being charged. There were short demand interest due to this incorrect computation of interest in many cases. Penal rate of interest shall be payable on overdue instalments (Principal and interest) for the period of delay.

Demand, Collection and Balance Statements are not being prepared by the departmental officers do not reveal incorrect position of arrear. Year-wise analysis of arrears, category analysis of arrears of principal and interest/ penal interest. No proper Demand Collection Balance Statement is seen prepared by income offices. The Demand Collection Balance Statement prepared by the Joint Registrars (Gl.) have no relevancy with reference to the loan ledgers maintained in their offices and office of the Assistant Registrars (General), Demand Collection Balance statements prepared by the departmental officers do not depict the correct position of outstanding loans and interest/penal interest. In the case of some Joint Registrars (General), seperate Demand Collection Balance Statement for State Government loans and loans under NCDC Schemes are not being prepared.

In some cases, the loan account in the ledger is seen closed by simply noting the word 'loan closed' in red ink. The details regarding the repayment of principal instalments, payment of interest/penal interest are not seen recorded in the ledger. Moreover, the closure entry is seen not attested by any responsible officer.

It is one of the Primary responsibility of the departmental officers to ensure that the loan ledgers are maintained properly with upto date information and full details and loan instalments together with interest/penal interest are realised promptly. This is inevitable to watch repayment of loan principal instalments and interest/penal interest. The laxity on the part of departmental officers in the matter of proper maintenance of loan ledgers and realisation of loan instalments together with interest/penal interest is viewed with serious concern. The above mentioned sorry state of affairs prevailing in the department in the matter of maintaining the basic records in respect of revenue due to Government and realisation of the same has been brought to the notice of all Joint Registrars (General) vide D.O. letter 10th cited, for strict compliance. This sorry state of affairs cannot be allowed to continue any further. In this circumstance, in addition to the instructions in this regard issued from this office from time to time, the following instructions are issued for strict compliance .

1. MAINTENANCE OF LOAN LEDGER

1. Loan ledgers should be maintained properly in the offices of the Joint Registrars (General) and Assistant Registrars (General). The loan ledgers maintained by them should contain details such as number and date of sanctioning the loan, amount

of loan, date of disbursement of the loan/each instalment of loan, rate of interest, number of instalments for repayment of the loan, rate of each instalment and other relevant information.

2. Details of remittances such as chalan number, date of remittance, name of treasury, amount each remitted towards payment of principal instalments and interest payment should be recorded in the loan ledgers.

3. The entries in the loan ledgers maintained in the offices of the Assistant Registrars (General) should be reconciled with that of shown in the loan ledgers maintained in the offices of the Joint Registrars (General) atleast once in a quarter.

4. The Joint Registrars (General) and Assistant Registrars (General) will be personally responsible for the maintenance of loan ledgers in their offices with upto date full details.

5. All entries in the loan ledgers should be attested by a responsible officer.

6. The Joint Registrars (General) each should make necessary arrangements to complete the loan ledgers maintained in his office and offices of the Assistant Registrars (General) under his control as instructed above on or before 15.10.2003 positively and furnished a certificate to the effect that "the loan ledgers maintained in this office and those in the offices of the Assistant Registrars (General) are completed in all aspect as instructed in circular No.45/2003 dated 1.8.2003 of the Registrar of co-operative societies". The certificate should be furnished so as to reach office on or before 30.11.2003 positively.

II REALISATION OF LOAN INSTALMENTS AND INTEREST/PENAL INTEREST

1. The orders sanctioning loan should be accompanied by a Statement in the proforma given in the Annexure I to Government Circular 9th cited.

2. The Joint Registrars (General) should keep a close watch on timely repayment of loans granted to Co-operative Institutions and recovery of interest thereon.

3. Instalments of principal, interest and penal interest due from the loanees should be worked out in advance and Demand Notices should be sent to the borrowers one month in advance of the due date regarding repayment of the principal and payment of interest in the form given in Annexure III to Government Circular 9th cited.

4. The Joint Registrars (General) should review, at least quarterly principal repayments/Interest payments due from the loanees and in defaulted cases, a fresh notice in the form given in Annexure IV to Government Circular 9th cited should be served on the loanees to arrange payment with penal interest/higher rate of interest.

5. The receipt towards loan instalments and interest should be reconciled with the treasury accounts promptly.

6. Penal interest should be charged on overdue instalments of principal and interest for the period of delay.

7. Short demand of interest on account of the wrong application of rate of

interest should not be occured.

8. Amount paid by the loanees shall be adjusted first towards interest dues if any, and the balance only shall be adjusted towards principal.

9. In the case of chronic defaulters, action under Revenue Recovery Act should be initiated under intimation to this office. A separate register should be maintained in the offices of the Joint Registrar (General) and Assistant Registrar (General) for recording the details of cases advised to action under Revenue Recovery Act and amount collected under Revenue Recovery Act.

10. Since it is the responsibility of the Joint Registrar (General) to watch the recovery of loans issued to the District level and Regional Co-operative Societies, they should serve timely demand notices to the concerned institutions also one month in advance in form given in Annexure III to Government Circular 9th cited, promptly for remitting the Government dues under loans and interest including penal interest as instructed in the circular 4th cited.

11. In the case of defaults for repayment of loans and payment of interest and penal interest in respect of Apex level Institutions/Federations, the Joint Registrar (General) should intimate the details of defaults to this office in the form given in Annexure II to Government circular 9th cited for taking appropriate action against the institutions concerned for realising the arrears of Government dues.

12. The Joint Registrar (General) should chalk out an action plan for the realisation of all arrears of loan instalments and interest/penal interest within a period of one month positively.

13. In the case of loans under NCDC schemes penal rate of interest should be charged on overdue instalments (principal and interest) for the period of delay since in respect of loans under prompt repayment as mentioned above.

III. PREPARATION OF DEMAND, COLLECTION AND BALANCE STATEMENTS

1.The Demand, Collection and Balance Statement prepared by the Joint Registrar (General) and Assistant Registrar (General) should reveal the correct position of outstanding loans, arrears, year-wise analysis of arrears, category-wise analysis of arrears of principal and interest etc.

2. The Demand, Collection and Statements should have relevancy with reference to the loan ledgers maintained in the offices of the Joint Registrar (General) and Assistant Registrar (General).

3. The Demand, Collection and Balance Statements should depict the correct position of outstanding dues.

4. As the Government is closely watching the repayment of loans under NCDC schemes, hereinafter separate DCB Statement in respect of Government loans and loans under NCDC schemes should be prepared and furnished to this office.

5. Quarterly, Half-yearly and yearly DCB statements should be prepared and

submitted to this office promptly.

6. If there is any difference in the opening balance of a DCB statement with reference to the closing balance of the previous DCB statement, satisfactory explanation for difference should be specifically stated in the DCB statement.

7. Arithemetical inaccuracy should not be occurred in the DCB statement.

8. As the DCB statements are intended to indicate the exact position of the revenue due, collected and revenue outstanding during a particular period and serve as an instrument of internal control system the DCB statements should be prepared with atmost care so as to serve the purpose for which they are intended.

IV. OTHERS

1. The department officers should observe the general instructions and conditions on which the loans are granted in accordance with the procedures contained in Chapter IX of Kerala Financial Code Volume.I.

2. The department officers should ensure that the loanees utilise the amount sanctioned for the purpose for which it was sanctioned.

3. A copy of the Government circular 9th cited is enclosed. The Instructions contained therein should be scrupulously complied with.

The above instructions should be strictly adhered to.

Receipt of this circular should be acknowledged.

K. Kesavan
Registrar of Co-operative Societies in Charge

കേരള സർക്കാർ

സംഗ്രഹം

സഹകരണ സംഘങ്ങൾ നടത്തുന്ന ഓണചന്തകൾക്ക് തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങളിൽ നിന്നും സാമ്പത്തിക സഹായം നൽകുന്നതിന് അനുമതി നൽകി ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു

തദ്ദേശ സ്വയംഭരണ (കെ) വകുപ്പ്

സ:ഉ. (സാധാ) നമ്പർ 3086/03/ത സ്വഭവ തിരുവനന്തപുരം, തീയതി 25–08–2003

പരാമർശം : 20–08–2003 ലെ മന്ത്രിസഭാ തീരുമാനം - ഐറ്റം നമ്പർ ഒ/എ – 5

ഉത്തരവ്

പരാമർശത്തിലെ തീരുമാനപ്രകാരം സഹകരണ സംഘങ്ങൾ നടത്തുന്ന ഓണ ച്ചന്തകൾക്ക് 3,000/– രൂപ വീതം (മൂവ്വായിരം രൂപ) സാമ്പത്തിക സഹായം നൽകുന്ന തിന് സംസ്ഥാനത്തെ തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങൾക്ക് (കോർപ്പറേഷനുകൾ, മുനി സിപ്പാലിറ്റികൾ, ഗ്രാമപഞ്ചായത്തുകൾ) അനുമതി നൽകി ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

ഗവർണറുടെ ഉത്തരവിൻ പ്രകാരം
എൻ. ലത
ജോയിന്റ് സെക്രട്ടറി

നമ്പർ എസ്.സി.റ്റി (1) 42242/02 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 21.11.2003

സർക്കുലർ നമ്പർ 61/2003

വിഷയം : **പട്ടികജാതി/പട്ടികവർഗ്ഗ സഹകരണസംഘങ്ങൾക്ക് റിവോൾവിംഗ് ഫണ്ടിൽനിന്നും ധനസഹായം ലഭ്യമാക്കുന്നതിനുള്ള ഗൈഡ്ലൈൻസ് പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **ഇല്ല**

സഹകരണവകുപ്പിന്റെ അധികാരത്തിൽ വരുന്ന എസ്.സി/എസ്.റ്റി. സഹകരണസംഘങ്ങൾ അതാത് ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ)മാരുടെ വ്യക്തമായ ശുപാർശ സഹിതം സർക്കാർ അംഗീകരിച്ച നിശ്ചിത ഫോറത്തിൽ അംഗീകരിച്ച നിബന്ധനകൾക്ക് വിധേയമായി ധനസഹായ അപേക്ഷ സമർപ്പിക്കേണ്ടതാണ്.

സഹകരണവകുപ്പിന്റെ അധികാരത്തിൽ വരുന്ന അതാത് എസ്.സി./എസ്.റ്റി. സഹകരണസംഘങ്ങൾ ധനസഹായ അപേക്ഷ എസ്.സി./എസ്.റ്റി. ഫെഡറേഷൻ മാനേജിംഗ് ഡയറക്ടർ മുഖേന ടിയാന്റെ വ്യക്തമായ അഭിപ്രായം സഹിതം അയയ്ക്കേണ്ടതാണ്. ഇതു സംബന്ധമായ നിബന്ധനകൾ ടി സംഘങ്ങളും പാലിച്ചിരിക്കേണ്ടതാണ്.

റിവോൾവിംഗ് ഫണ്ടിൽ നിന്നും സഹായം ലഭ്യമായത് പിൻവലിച്ച് ഉപയോഗിക്കുന്ന രേഖകൾ സഹകരണവകുപ്പിന്റെ കീഴിലുള്ള സഹകരണസംഘങ്ങൾ അതാത് ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർമാർ വഴി സർക്കാർ അംഗീകരിച്ച ഉടമ്പടി സഹിതം സമർപ്പിക്കേണ്ടതും ജോയിന്റ് രജിസ്ട്രാർ ആയതിന്റെ വിനിയോഗം വീക്ഷിക്കേണ്ടതും വിനിയോഗ സർട്ടിഫിക്കേറ്റ് സർക്കാരിലേക്ക് അയച്ചുകൊടുത്ത് വിവരം സഹകരണസംഘം രജിസ്ട്രാരെ അറിയിക്കേണ്ടതുമാണ്.

സഹകരണവകുപ്പിന്റെ അധികാരത്തിൻ കീഴിൽ അതാത് എസ്.സി/എസ്.റ്റി സഹകരണസംഘങ്ങൾക്കും ധനസഹായം ഫെഡറേഷൻ മുഖാന്തിരം നൽകുന്നതും ആയത് പിൻവലിക്കുന്നതിനുള്ള അനുവാദം എസ്.സി./എസ്.റ്റി ഫെഡറേഷൻ മാനേജിംഗ് ഡയറക്ടർ, ചട്ടങ്ങളിൽ നിഷ്ക്കർഷിച്ചിട്ടുള്ള പ്രകാരം ഉടനടി ഒപ്പുവച്ച് നൽകേണ്ടതും തുകയുടെ വിനിയോഗം എം.ഡി. തന്നെ വീക്ഷിക്കുകയും, വിനിയോഗസർട്ടിഫിക്കേറ്റ് യഥാസമയം സർക്കാരിലേക്ക് അയച്ചുകൊടുത്ത് വിവരം സഹകരണസംഘം രജിസ്ട്രാറെ മാനേജിംഗ് ഡയറക്ടർ അറിയിക്കേണ്ടതുമാണ്.

സഹകരണസംഘം രജിസ്ട്രാർക്കു വേണ്ടി

No. Fin A(2) 52600/2003 Office of the Registrar of Co-operative Societies,
Thiruvananthapuram, dated 29.12.2003

CIRCULAR No. 64/2003

Sub **: Co-operative Department-Government dues-Arrears of loans, retirement of share capital contribution audit fees, cost of staff/ Audit Cost, dividend and guarantee commission due from**

Co-operative Institutions-Intensive collection drive during the period from 1.1.2004 to 29.2.2004-Instructions issued

Ref:

1. The State Government is providing substantial financial assistance by way of loan, share capital contribution etc; to Co-operative for implementing various development schemes. Necessary rules have also been framed for repayment of loans, retirement of share capital contribution and payment of penal interest for belated repayment of dues to Government. The arrears due to Government towards loans, retired portion of share (direct participation), Audit fees, and cost of staff posted under Rule 156, Part 1 K.S.R. have increased considerably on the past few years due to various reasons. The negligence on the part of departmental officers in pursuading the societies to remit Government dues is one o f the reasons for the accumulation of heavy arrears. It has been brought to my notice that the Assistant Registrars (General) in the Taluk are not taking proper action to see that the dues are remitted by societies promptly. The Joint Registrars (General) are also not seen taking any effective steps for collection of arrears of Government dues. The Joint Registrars (General) and Assistant Registrars (General) are personally responsible for collection of above said Government dues.

2.In the conference of the joint Registrars (General) held on 30.10.2003, the Hon'ble Minister for Co-operation had directed to launch a Special Collection Drive for the realisation of all arrears due to Government from the Co-operative (Vide items 7 of the minutes of the conference)

3. Taking into account of all these facts it has been resolved to launch a special collection drive during the period from 1.1.2004 to 29.2.2004 for the collection of all arrears due to Government from the Co-operative.

4. The Joint Registrars (General) will convene the Conference of Assistant Registrars (General) and Inspectors in the Circles and appraise them of the necessity and importance in the collection of Government dues especially since the arrears position has reached an alarming stage. The target fixed for collection drive period is 100% of the outstanding arrears of Government dues as on 31.12.03 on the basis of the above target Joint Registrar (General) shall fix the target for the Assistant Registrars (General) in each circle under their control and the Assistant Registrars (General) in turn shall fix the target for Unit Inspectors. The Deputy Registrars (Administration) and Assistant Registrars (Planning) in the office of the Joint Registrars (General) will be in-charge of collection drive. The Joint Registrars should be in overall charge of the operation in the district and he may provide the maximum possible facilities for the collection drive. Statement showing the progress achieved in Special Collection drive should be sent by the Joint Registrars (General) to the Registrar of Co-operative Societies on or before 20.3.2004 in proforma A to F (Specimen copy enclosed)

without fail. The details of Government loans and share and NCDC loans and share may be furnished in separate forms.

5. It has been noticed that there is lack of proper monitoring of repayment of NCDC loans/shares by the beneficiary societies to the State Government. The repayment of the loans received from NCDC and payment of its interest are being made by the State Government promptly. Therefore it is a must that NCDC loans / share are repaid by the beneficiary societies to State Government promptly without making any arrears at any time. But it is noticed with serious concern there are substantial arrears of NCDC loans/shares. This sorry state of affairs has to be changed forthwith. In order to achieve this the Joint Registrars (General) should ensure that all arrears of NCDC loans/shares are cleared fully during the Special Collection Drive period.

6. As regards the collection of cost of Auditors under Rule 156, Part 1, K.S.R., it is noticed that there are arrears pending collection in various districts eventhough the cost of audit should be collected in advance. The Joint Registrars (Audit) in the districts as well as Assistant Registrars (Audit) in Taluk are personally responsible for the collection of Government dues in this regard from the Co-operative Institutions in the districts including Apex Institutions. The Joint Registrars (Audit) should see that 100% of the arrears are collected and advance collection are made as per the standing orders. The Joint Registrars(Audit) should see that 100% of the arrears are collected and advance collection are made as per the standing orders. The Joint Registrars (Audit) should furnish the progress achieved during the special collection drive period in proforma C,D and E (Specimen copy enclosed) to the Registrars of Co-operative Societies on or before 20.3.2004 without fail.

7. The time limit fixed for the submission of progress of statement should be strictly adhered to.

Receipt of the Circular should be acknowledged.

K. Kesavan
Registrar of Co-operative Societies in Charge

No. Fin. A(2) 38300/04 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, dated 20.9.2004

CIRCULAR No. 36/04

Sub **: Co-operative Department – Government dues Arrears of loans, retirement of share capital contribution – Audit fees, cost of staff/ Audit cost, Dividend and guarantee commission due from Co-operative Institutions. Intensive collection drive during the period from 1.10.04 to 31.12.04. Instructions issued**

Ref **: Government's "100 days Action Programme" Decision in the meeting held by the Registrar dated 7.9.04**

1.The State Government is providing substantial financial by way of loan, share capital contribution etc.; to co-operatives for implementing various development schemes. Necessary rules have also been framed for repayment of loans, retirement of share Capital Contribution and payment to penal interest for belated repayment of dues to Government. The arrears due to Government towards loans, retied pension of share (direct participation), Audit fees, and cost of staff posted under Rule 156, part 1, K.S.R. have increased considerably in the past few years due to various reasons. The negligence on the part of departmental officers in persuading the societies to remit Government dues is one of the reasons for the accumulation of heavy arrears. It has been brought to my notice that the Assistant Registrars (general) in the Taluks are not taking proper action to see that the dues are remitted by societies promptly. The Joint Registrars (General) are also not seen taking any effective steps for collection of arrears of Government dues. The Joint Registrars (General) and Assistant Registrar (General) are personally responsible for collection of above said Government dues.

2. In the conference of the section Superintendent/officers held on 7.9.2004 it was decided to launch a Special Collection Drive for the realization of all arrears due to Government from the Co-operatives. (Vide para 6 of the minutes of the conference).

3. Taking into accounts of all those facts it has been resolved to lunch a Special Collection Drive during the period from 1.10.2004 for the collection of all arrears due to Government from the Co-operatives.

4. The Joint Registrars (General) should convene the conference of Assistant Registrars (General) and Inspectors on the Circles and apprise them of the necessity and importance in the collection has reached an alarming stage. The target fixed for collection drive period is 100% of the outstanding arrears of Government dues as on 30.9.2004. On the basis of the above target Joint Registrars (General) shall fix the target for the Assistant Registrars (General) in each circle under their control and the Assistant Registrars (Planning in the office of the Joint Registrars (General) will be in-charge of collection drive. The Joint Registrars should be in overall charge of the operation in the district and he may provide the maximum possible facilities for the collection drive. Statement showing the progress achieved in Special Collection Drive should be prepared by Co-operative Societies on or before 25.1.2005 in form A to F (Specimen Copy enclosed) without fail. The details of Government loans and share and NCDC loans and share may be furnished in separate forms.

5. It has been noticed that there is lack of proper monitoring of repayment of National Co-operative Department Corporation loans/shares by the beneficiary societies to the State Government. The repayment of the loans received from National Co-operative Development Corporation and payment of its interest are being made

by the State Government promptly. There it is must that National Co-operative Development cooperation loans/share are repaid by the beneficiary societies to State Government promptly without making any arrears at any time. But it is noticed with serious concern there are substantial arrears of National Co-operative Development Corporation loans/shares. This sorry state affair has to be changed forth with. In order to achieve this the Joint Registrar (General) Should ensure that all arrears of National Co-operative Development Corporation loans/shares are cleared fully during the special collection Drive period.

6. As regards the collection of Cost to Auditors under Rule 156, Part1, K.S.R. it is noticed that there are arrears pending collection in various districts even though the cost of adult should be collected in advance. The Joint Registrars (Audit) in the districts as well as Assistant Registrars (Audit) in Taluks are personally responsible for the collection of Government dues in this regard from Co-operative Institutions in the districts including Apex Institutions. The Joint Registrar (Audit) should see that 100% of the arrears are collected and advance collection are made as per the furnished progress achieved during the Special Collection Drive period in proforma. C.D. and E (Specimen Copy enclosed) to the Registrar Co-operative Societies on or before 25.1.05 without fail.

7. The time-limit fixed the submission of progress of statement should be strictly adhered to.

Receipt of the Circular should be acknowledged.

K. Kesavan,
Registrar of Co-operative Societies in Charge

നമ്പർ : എസ്. സി. റ്റി (1) 23354/05 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവന്തപുരം, തീയതി 14–06–2005

സർക്കുലർ നമ്പർ 16/05

വിഷയം : **പട്ടികജാതി/പട്ടികവർഗ്ഗ സഹകരണ സംഘങ്ങൾ പ്ലാൻ സ്കീം അനുസരിച്ചുള്ള ധനസഹായത്തിന് അപേക്ഷ സമർപ്പിക്കുമ്പോൾ പാലിക്കേണ്ട നടപടികളെ സംബന്ധിച്ച്.**

സഹകരണ വകുപ്പിന്റെ കീഴിൽ പ്രവർത്തിക്കുന്ന പട്ടികജാതി/പട്ടിക വർഗ്ഗ സംഘങ്ങളിൽ നിന്നും പ്ലാൻ സ്കീം അനുസരിച്ചുള്ള അപേക്ഷകൾ ക്രമാതീതമായി ഈ ആഫീസിൽ ലഭിച്ചുകൊണ്ടിരിക്കുകയാണ്. എന്നാൽ ഇപ്രകാരം ലഭിച്ചിട്ടുള്ള അപേക്ഷകൾ ആവശ്യമായ പരിശോധനകൾ നടത്താതെയാണ് ജോയിന്റ് രജിസ്ട്രാർ ആഫീസുകളിൽ നിന്നും ഈ ആഫീസിലേക്ക് അയച്ചു തരുന്നത്. ബന്ധപ്പെട്ട സംഘങ്ങളുടെ നിലവിലുള്ള പ്രവർത്തനത്തെ മെച്ചപ്പെടുത്താനുള്ള നിർദ്ദേശം അപേക്ഷകളോടൊപ്പം ഉണ്ടാകാറില്ല. മാത്രവുമല്ല പുതിയ പ്രൊജക്ടുകൾ സമർപ്പിക്കുമ്പോൾ അതിന്റെ പ്രായോഗികത, കാര്യക്ഷമത, എന്നിവ വിലയിരുത്താറുമില്ല. അതുകൊണ്ട് സഹകരണസംഘങ്ങൾ സമർപ്പിക്കുന്ന അപേക്ഷ ക്രമപ്രകാരമാണ് എന്നു ബന്ധപ്പെട്ട

ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) സാക്ഷിപ്പെടുത്തേണ്ടതാണ്. ഇതു സംബന്ധിച്ച് ചട്ടം പരിശോധിച്ചു വേണം ഇപ്രകാരം ചെയ്യേണ്ടത്. അപേക്ഷയോടൊപ്പം സമർപ്പിക്കുന്ന പ്രൊജക്ട് റിപ്പോർട്ട്, ഭരണസമിതി തീരുമാനം, അഴിമതി രഹിത കുടിശ്ശിക രഹിത സർട്ടിഫിക്കറ്റുകൾ, ആഡിറ്റ് സർട്ടിഫിക്കറ്റിന്റെ പകർപ്പ്, ബൈലാ എന്നിവയെല്ലാം യഥാക്രമമാണോ എന്നും, വേണ്ട അളവിൽ ഉണ്ടോ എന്നും പരിശോധിച്ച് കൃത്യമായി സാക്ഷ്യപ്പെടുത്തി അയച്ചു തരേണ്ടതാണ്. സംഘം നഷ്ടം നികത്താൻ സാധിക്കുന്ന പ്രൊജക്ട് പ്രായോഗികമാണോ എന്നും സംഘത്തിന്റെ നഷ്ടം നികത്താൻ സാധിക്കുന്ന പ്രൊജക്ട് ആണോ എന്നും പരിശോധിച്ച് വ്യക്തമായ ശുപാർശയോടെ വേണം അപേക്ഷ പരിഗണിക്കാൻ അയച്ചു തരേണ്ടതെന്ന് നിർദ്ദേശം നൽകുന്നു. അപേക്ഷയോടൊപ്പം നിർദ്ദിഷ്ട പ്രൊജക്ട്, നിലവിലുള്ള പ്രവർത്തനം എന്നിവ സംബന്ധിച്ച് വിശദമായ അവലോകനം റിപ്പോർട്ട് എസ്.സി/എസ്.റ്റി അസിസ്റ്റന്റ് രജിസ്ട്രാർ തയ്യാറാക്കി ജോയിന്റ് രജിസ്ട്രാർ സാക്ഷ്യപ്പെടുത്തി അയച്ചു തരേണ്ടതാണ്. മേൽ നിർദ്ദേശങ്ങൾ എല്ലാ ജോയിന്റ് രജിസ്ട്രാർമാരും അസിസ്റ്റന്റ് രജിസ്ട്രാർമാരും കർശനമായി പാലിക്കേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

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ACT

CHAPTER VII
PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

S55. Funds not to be divided :- No part of the funds other than the net profits of a society shall be paid by way of bonus or dividend or otherwise distributed among its members;

Provided that a member may be paid such remuneration, allowances or honoraria and no such scale as may be laid down by the bye-laws for any services rendered by him to the society.

S56. Disposal of net profit :- (1) A society shall, out of its net profits in any year

(a) transfer an amount not be in less than fifteen per cent of the net profits to the reserve fund; and

(b) credit such portion of the net profits, not exceeding five per cent, as may be prescribed, to the Co-operative Education Fund referred to in clause (xix) of sub-section (2) of Section 109.

[*(c) pay, in the case of a Central Society, including a District Co-operative Bank, dividend to its members, on their paid up share capital at such rate not exceeding twenty percent.]

(2) The balance of the net profits may be utilised for all or any of the following purpose namely;-

(a) payment of dividends to members on their paid up share capital at such rate [**not exceeding twenty per cent] as may be prescribed.

(b) payment of bonus to members on the amount or volume of business done by them with the society, to the extent and in the manner specified in the bye-laws;

(c) constitution of, or contributions to, such special funds as may be specified in the bye-laws;

(d) donations of amounts not exceeding ten per cent of the net profits for any charitable purpose as defined in Section 2 of the #Charitable Endowments Act, 1890 (Central Act 6 of 1890): and

(e) payment of bonus to employees of the society to the extent and in the manner specified in the bye-laws or in the ##Payment of Bonus Act, 1965 (Central Act 21 of 1965), as the case may be.

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* Inserted by Act 15 of 1997

** Substituted by Act 16 of 1993

Section 2 of the Act runs; **S.2. Definition :-** In this Act "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship.

As per this Act, bonus ranges from 8.33% and 20%, limiting the monthly income to the ceiling.

CASE LAWS

Even if bonus is linked with productivity, an employer is disabled from paying bonus in excess of 20% Payment of Bonus Act, 1965 – Section 31 A – Prohibition contained in Section 31 A – Even if bonus is linked with productivity, an employer is disabled from paying bonus in excess of 20%.

It cannot be disputed that the prohibition contained in Section 31 A will have to be applied in the case of an employer strictly. We cannot comprehend a situation where a provision applies to one party alone. It may lead to undesirable results. An employer is disabled form paying bonus in excess of 20%, even if bonus is linked with productivity. *In this judgment* **1997 (2) KLT 345, 1976 (2) LLJ 186** *and* **1995 (1) LLJ 1201** *are referred to and* **1969 (1) LLJ 719** *is followed.*

2004 (2) KLT SN 65 = 2004 (2) KLJ 423 S.E.P.R. Employees Association (CITU) v/s Additional Labour Commissioner

Employees working with Primary Banks are not entitled to parity in rate of bonus with employees of the Apex Bank Payment of Bonus Act, 1965 – Sections 3, 10, 34, 34 A, 4, 5 and 6 – Labour Law- Bonus – Claim to parity in bonus rate between employees of Primary Banks and Apex Banks – Whether it is legal – Primary Agricultural Cooperative Banks have independent corporate existence – It maintains separate balance sheets and profit loss accounts – Held, employees working with primary Banks are not entitled to parity in rate of bonus with employees of the Apex Bank. *In this judgment* **2003 (4) Scale 197** *is affirmed and* **1880 (5) QBD 170, AIR 1961 SC 1596, AIR 1965 SC 1728, 1897 AC 647 HL, AIR 1991 SC 1406, AIR 1991 SC 1538, 1994 (5) SCC 672, 1922 (1) AC 256, 1940 AC 206, 1971 (1) SCC 536** *and* **1978 (2) SCC 42** *are relied on.*

2004 (1) SCC 574 DB Haryana State Co-operative Land Development Bank Ltd v/s Haryana State Cooperative Land Development Banks Employees Union and another

If dismissal declared illegal by Court dismissed employee is entitled to claim bonus Payment of Bonus Act, 1965, Section 8 – Dismissal of Employee declared illegal by Court – Employee deemed to be working – Entitled to claim bonus.

When an employee is illegally dismissed it cannot be said that the employee "did not work in the establishment" as normally understood. "Worked" in S.8 of the Payment of Bonus Act, 1965, having regard to the historic background should mean "ready and willing to work" and such working should not be understood with reference to the dictionary meaning of the word and the eligibility understood in the abstract, In abnormal circumstances where a workman was prevented from working by an overt act on the part of the employer, which ultimately is declared illegal by a competent court, the reasonable inference would be that the employee's statutory eligibility for bonus within the meaning of S.8 is not lost. *In this judgment* **1971 (39) PJR 498**

Mad *is relied on and* **1957 (1) MLJ 7, 1959-60 (17) FJR 421 Mad** *and* **1969 (2) LLJ 416** *are referred to.*

2000 (2) KLT SN 46 P 39 Ahamed Hussain v/s Swadeshi Cotton Mills

Workmen are entitled to bonus as per the Act and the rate of bonus can be resolved through a settlement Section 12 - Merely because the rate of bonus is settled as per a settlement it does not cease to be a payment under the Act. If Section 11 is attracted, Section 12 can be invoked.

On an examination of the settlement, it cannot be said that the settlement was the source or right for bonus. It only settled the disputes with regard to the rate of bonus. The rate of bonus was fixed at 10.5% of the wages earned. There is no case that the bonus fixed was linked with production or productivity. Thus, this is a case where the workmen were entitled to bonus as per the Act and the rate of bonus was resolved through a settlement.

1997 (2) KLT 345 = 1997 (2) KLJ 303 The Commonwealth Trust (India) Ltd v/s Labour Court

Employee suspended and later reinstated is eligibile for bonus Sections 8, 9, 13 & 14 - Bonus - Eligibility for payment of bonus-"Worked" meaning of - Means ready and willing to work - Employee suspended and later reinstated-Employee's eligibility for bonus not lost.

If everything was normal, the worker to sustain a case for bonus or to be eligible for it, should work in the establishment for not less than 30 working days in that year. But in abnormal circumstances, wherein he was prevented from working by an over act on the part of the employer which was ultimately sets aside and the employee was reinstated in service, then the reasonable inference was that the employee's statutory eligibly for bonus within the meaning of section 8 of the Payment of Bonus Act, 1965, could not be said to have been lost. Nor could the employer refuse to accede to a demand for such bonus if it was otherwise payable under the provisions of the Act.

1995 (1) KLT SN 42 P 30 O.N.G.C. v/s Sham Kumar

RULES

R53. Constitution of co-operative education fund :- The net profits of any society as declared by the Registrar in respect of any Co-operative year shall be appropriated in the manner set forth in Section 56, subject to the following conditions, namely:-

(1) Not less than 15% of the net profits shall be carried to the Reserve Fund.

[*(2) (a) Every society having a net profit of Rs. 1,000/- and above shall set apart a sum calculated at five per cent of the net profit for contribution to the Co-operative Education Fund contemplated in clause (b) of sub-section (1) of Section 56 subject to maximum of [**Rs. 40,000/-]]

* Substituted by SRO 1304/92

** Substituted by SRO 380/2000

(b) The sum so allocated shall be remitted to the Credit of Co-operative Education Fund in the Kerala State Co-operative Bank within two months of the date of receipt of the audit certificate.

(c) The Co-operative Education Fund shall be maintained and administered by the Kerala State Co-operative Union. It shall be utilised for the furtherance of Co-operative education including propaganda as contemplated in the Act and the Rules and Regulations formed by the Union and approved by Government.

(d) No part of the Co-operative Education Fund shall be spent by the said union except in accordance with regulations of the Union and the General directions that may be issued by the Registrar or Government from time to time.

(e) The said Union shall maintain separate account for this fun in accordance with the regulations to be framed by the Union, with the approval of Government. The regulations shall, among other things provide for contributions to the All India Co-operative Union and assistance to Circle Co-operative Unions.

(f) It shall be competent for the Government, if found necessary, to constitute a committee of not more than five members of whom two shall be elected members of the Managing Committee of the Kerala State Co-operative Union, for the administration of the Co-operative Education Fund. On the constitution of the Committee, the Committee of the State Co-operative Union shall hand over charge of the cash, records and other documents in respect of this fund to the committee constituted under this sub-rule. The period of the committee and the details of its working shall be as laid down by Government from time to time.

(3) Every Agricultural Credit Society other than a Land Mortgage Bank or a society the object of which is to grant long term loans exclusively on the mortgage of immovable properties and every financing bank other than a financing bank the object of which is to provide funds for the grant of long term loans on the mortgage of immovable properties, shall set apart not less than 15% of its net profits towards an Agricultural Credit Stabilisation Fund. This fund shall not be utilised except with the prior written permission of the Registrar.

[*(4) A society may utilise the balance of the net profit for payment of dividends to its members on their paid up share capital at such rate not exceeding twenty per cent as may be decided by the general body.]

CASE LAWS

Contributions for starting job oriented courses including in Medicine and Engineering Co-operative Societies Act, 1969, (Kerala) - Sections 56 and 57 – Contributions for starting job oriented courses including in Medicine & Engineering in the Co-operative Sector - Contribution can be given only from the funds available in the common good fund created as per S.56 (2) (c) or 56 (2) (d) – Cannot be given from the General Fund.

* Inserted by SRO 115/94

Contributions can be given within the permissible limit in Ext.P5 from the funds available in the common good fund created as Per S.56(2)(c) or ten per cent of the profits which can be given as contributions from the Co-operative Society for the charitable purpose under S.56(2)(d). Working fund of the Society can be used only for the working of the society mentioned in the bye-laws or as authorised by the Act and Rules. General Fund cannot be utilised for payment of donations. What can be given as contribution is given in S.56(2)(c) & (d) of the Act. In view of the above, I hold that the directions in Ext.P5 that is sufficient funds are not available in the common good fund, balance may be met from the General Fund for the time being pending recoupment is illegal and last sentence in Ext.P5 cannot be given effect to. *In this judgment* **1979 KLT 58** *is referred to.*

1999 (3) KLT 758 All Kerala District Co-operative Bank Employees Congress v/s State of Kerala

Funds of the society Section 55 - The word 'Fund' is used as a general term to mean the money of the society

The expression "No part of the funds other than the net profits" itself would indicate that the word 'fund' is used as a general term to mean the money of the society. This position is reemphasised by the proviso which says that a member may be paid such remuneration allowance or honorarium which can only be paid from the fund of the society, which means the money of the society.

1997 (1) KLT SN 81 P 60 Chandrasekhara Pillai v/s State

Bar to divide funds There is a positive bar under Section 55 of the Act in dividing the funds among members other than net profits. How the net profit have to be distributed is narrated in Section 56 of the Act, which also postulates payment of dividends to members on their paid up share capital at such rate not exceeding twenty per cent. It also postulates payment of bonus to employees of the society to the extent and in the manner specified in the bye-laws or in the Payment of Bonus Act, 1965, as the case may be Rule 53 of the Rules also stipulates net profits of any society as declared by the Registrar in respect of any Co-operative year shall be approached in the manner set forth in Section 56 Sub-rule 4 of 53 states a society may utilise, the balance of net profit for payment of dividends to its members as their paid up share capital at such rates not exceeding 20% as may be decided by the General body. In other words reading Sections 55 and 56 and Rule 53 together it is evidently clear that statutes itself has given how the net profits have to be disbursed among the members of the society. With regard to funds other than net profits there is a prohibition from disbursing the same among the members. The purchase of chapathithava from the fund of the society which according to Section 55 shall not be divided among the members. Only the net profits can be disbursed to the members of the society by payment of dividends as their paid up share capital.

OP 1317 *of* **1997** *decided on* **6-3-1997 = 1997 (1) KLT SN 81 P 60 G. Chandrasekharan Pillai v/s ISRO Employees Co-operative Society**

Exgratia gifts of articles to the members of the society from the net profit of the Society It is no doubt that Section 55 of the Act prohibits only payment or distribution of any part of the funds of the society other than the net profits by way of bonus or dividend amongst its members. Section 56 prescribes the only permissible modes in which the society shall deal with its net profits.

The exgratia distribution of stainless steel utensils to members of the society on the occasion of general body meeting will not fall within any of the clauses (a) to (e) of Section 56 (1) and it was not therefore competent for the committee of the society to incur any expenditure out of the net profits of the Society for making such exgratia gifts of articles to the members of the society.

1979 KLT 589 State v/s Raju

ACT

S57. Investment of funds :- A society may invest or deposit its funds-

(a) in Government Saving Bank, or

(b) in any of the securities specified in Section 20 of the Indian Trusts Act, 1882 (Central Act 2 of 1882); or

(c) in the shares or securities of any other society approved for the purposes by the Registrar by general or special order; or

(d) in any bank approved for the purpose by the Registrar; or

(e) in any other prescribed manner.

RULES

R54. Manner of investment of funds :- (1) A Society may, with the previous sanction in writing of the Registrar, invest the whole or any portion of its funds in the purchase or lease of land on the acquisition, construction or renewal of any building that may be necessary to conduct its business. The amount of the funds so invested shall be recouped on such terms as may be determined in each case by the Registrar.

Provided that this sub rule shall not apply-

(a) to immovable property purchased-

(i) by a society at a sale held in execution of a decree, decision or award obtained by it for the recovery of any sum due to it; or

(ii) by a Financing Bank at a sale held in execution of a decree, decision or award obtained by a society financed by it for the recovery of any sum due to such society or at a sale by or on behalf of the liquidator of such society;

(b) to the purchase or lease of lands or purchase, construction or remodelling of buildings of a Society, whose objects according to its bye-laws include such purchase, lease construction or remodelling:

Provided further that no recoupment of the amount invested under this

sub-rule shall be necessary when the investment is made-

(a) by a society from its building fund raised out of net profits as per the bye-laws; or

(b) by a society other than a credit society in which the share capital raised from the members is intended to build up the special kind of business for which it has been registered.

(2) No society shall dispose of any immovable property acquired by the society without the prior sanction of the general body and of the Registrar:

Provided that Housing Societies, the bye-laws of which specifically provide for the purchase and sale of immovable property, may dispose of those properties without the sanction of the Registrar or of the general body.

[*(3) A society may with previous permission of the Registrar deposit or invest its funds in institutions registered under the Travancore Cochin Literary, Scientific and Charitable Societies Act, 1955, provided that such "institutions are jointly managed by Government and Co-operative societies for the promotion of health and educational purposes.]

CASE LAWS

Building Words & Phrases – 'Building' Meaning of – Whether 'building' will include the land wherein the building is situated depends upon the intention of the parties, the agreement of the parties and the terms of document.

The building is situated in plot C and in terms of the said award, it is allotted to group No.4 Group No.5 was also allotted certain other items of property. It is after that, specific allotments of the building situated in Plot C shown in the plan is made in favour of groups 4 and 5. In such circumstances, taking into account the intention of the parties, the agreement of the parties and the terms of the document, it has to be taken, as found by the Courts below concurrently, that the allotment jointly to 4th and 5th groups as mentioned above, confined only to the building and not to the land. Therefore, in the nature of the document Ext.B16 and the allotment made mention of therein, the said decision cannot have any application. *In this judgment* **1994 (2) KLT 424** *is distinguished.*

2000 (1) KLT SN 42 P 37 = 2000 (1) KLJ 224 Kunhaliyumma v/s Kuttu

ACT

[**S57A. The Co-operative Development and Welfare Fund :-** (1) The Government may, by notification in the Gazette, frame a scheme to be called the Co-operative Welfare and Development Scheme for the establishment of a Fund under this Act and there shall be established, as soon as may be after the framing of the

* Inserted by SRO 380/2000

** Inserted by Act 1 of 2000

scheme, a Fund to be called the Co-operative Development and Welfare Fund, in accordance with the provisions of this Act and the scheme;

(2) A society may contribute to the Fund at such rates, as may be specified in the scheme.

(3) There shall be credited to the Fund,-

(a) the contribution to be paid by the Society under sub-section (2) and

(b) any other amount which, under the provisions of the scheme, shall be credited to the Fund.

(4) Subject to the provisions of this Act and the scheme, the Co-operative Development and Welfare Fund shall be utilised for payment of grant or loans to societies for the following purposes, namely:-

(i) for the purpose of safeguarding the interests of the societies against any loss or damage to their assets and properties, despite reasonable precautions to prevent such loss or damage;

(ii) for utilising for the developmental activities of the societies; and

(iii) for any other purpose as may be specified in the scheme.

(5) Subject to the provisions of this Act the scheme may provide for the following matters, namely:-

(i) the time and manner in which contribution shall be made to the Fund by the societies;

(ii) the rate of contribution;

(iii) the administration of the Fund;

(iv) the purposes for which the Fund may be utilised for developmental activities of the societies;

(v) the conditions under which the Fund may be expended for payment of reliefs to the societies;

(vi) the manner in which the accounts of the Fund shall be kept; and

(vii) any other matter which is to be provided for in the scheme or which may be necessary or proper for the purpose of implementing the scheme.

S57B. Deposit Guarantee Scheme:- (1) The Government may, by notification in the Gazette, frame a scheme to be called *"the Deposit Guarantee Scheme"* specifying the purpose of the scheme and shall be administered in such manner, as may be specified therein.

(2) A society may contribute to the Deposit Guarantee Scheme at such rates as may be provided in the said scheme.

S57C. Consortium Lending Scheme :- (1) The Government may, by notification in the Gazette, frame a scheme to be called the *"Consortium Lending Scheme"* for the purpose of providing loans for infrastructure development to societies,

local authorities, development authorities or similar institutions on Government guarantee subject to such terms and conditions, as may be specified in the said scheme.

(2) A society may contribute to the Consortium Lending Scheme, at such rates, as may be specified in the scheme.]

S58. Restrictions on borrowings :- A society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

RULES

R55. Restrictions on borrowings :- (1) Subject to the provisions in sub-rule (2) a society shall not receive deposits and loans, whether from members or non-members in excess of the limit fixed in the bye-laws of that society.

(2) A society which accepts deposits and loans from members only and has no liability to any person other than the members, may receive such deposits and loan in excess of the limit referred to in sub-rule (1), if the excess amount is deposited in a Co-operative Bank to which it is affiliated or is invested in Government or other securities specified in Section 20 of the Indian Trusts Act 1882 (Act of 1882):

Provided that the amount so deposited or invested or any part thereof, shall not be withdrawn or otherwise utilised except for the repayment of the deposits accepted in excess of the aforesaid limit.

[*(3) the receiving of deposits or loans referred to in sub-rules (1) and (2) shall be subject to such further terms and conditions as may be fixed or directions or guide-lines as may be issued, from time to time, by the Registrar or the National Bank for Agricultural and Rural Development or the Reserve Bank of India, as the case may be, by general or special order.]

ACT

S59. Restrictions on loans :- (1) A society shall not make a loan to any person or a society other than a member:

[**Provided that a District Co-operative Bank may make loan to nominal or associate members:

Provided further that, with the general or special sanction of the Registrar, a society may make loans to another society.]

(2) Notwithstanding anything contained in sub-section (1), a society may make a loan to a depositor on the security of his deposit.

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* Inserted by SRO 1485/89

** Substituted by Act 15 of 1997

RULES

R56. Restrictions on grant of loans :- (1) No financing bank or credit society, other than an agricultural credit society with unlimited liability, a land mortgage Bank and a society the object of which is to grant long term loans, exclusively on the mortgage of immovable properties, shall grant loans for periods [*exceeding five years.] [*xxxx]

(2) The Registrar shall have power to fix by general or special order in writing the amount of the maximum lending limit of a Financial Bank or a Credit Society other than an agricultural credit society with unlimited liability, a land mortgage bank and a society the object of which is to grant long term loans exclusively on the mortgage of immovable properties, which may be available for the grant of short term loans and loans repayable after one year but within three years or five years as the case may be, from the date of grant of loans:

Provided that the total amount of loans granted under the proviso to sub-rule (1) shall not exceed 50% of the total amount of loans permissible under this sub-rule for periods exceeding one year but not exceeding five years.

(3) No agricultural credit society with unlimited liability shall grant loans for periods exceeding five years.

Explanation :- In this rule the term 'short term loans' means loans repayable from the sale proceeds of the next harvest as soon as they are realised or within one year from the date of the grant of the loan, whichever period is longer.

(4) The Registrar may in consultation with the financing Bank by general or special order prohibit or regulate the grant of loans by a central bank or a society where such grant is considered neither in the interest of the society nor in the interest of the development of co-operative movement on sound lines.

[**(5) the grant of loans or advances to any members or non-members by a society shall be subject to such terms and conditions as may be fixed or directions or guidelines as may be issued, from time to time, by the Registrar or the National Bank for Agricultural and Rural Development or the Reserve Bank of India, as the case may be, by general or special order.]

NOTIFICATIONS

UNDER SECTION 59 (1)

Primary Agricultural Credit Societies

Government of Kerala hereby exempt all the Primary Agricultural Credit Societies from the provisions of sub-section (1) of Section 59 of the said Act for the

* Substituted and omitted by SRO 33/71

** Inserted by SRO 1485/89

limited purpose of enabling the said Primary Agricultural Credit Societies to sanction cash credit or overdraft facility to the beneficiary committees for the execution of public works of Local Self Government Institutions undertaken by such committees on condition that such amounts should not exceed 50% of the cost of such work on the recommendation and guarantee executed by the concerned Local Self Government Institutions at an interest rate not exceeding the rate prevailing for loans to non-agricultural purposes. The concerned Local Self Government Institutions shall give a guarantee to the said Society that all dues to the Beneficiary Committee would be realised from the final bill and credited to the said society.

SRO. No. 1098/2000 G.O.(P) No.149/2000/Coop dated 17-11-2000 K.G..Ex. Vol.45 No.2107

Primary Co-operative Agricultural and Rural Development Bank

Government of Kerala hereby exempt the Primary Co-operative Agricultural and Rural Development Bank from the provisions of sub-section (1) of Section 59 of the said Act for the limited purpose of enabling the said Primary Co-operative Agricultural and Rural Development Bank to provide housing loan facility to its em-ployees without prejudicing the interest of the member agriculturists and by making subrules by each of the Primary Co-operative Agricultural and Rural Development Bank with specification of in terms and conditions that the rate of interest of the loan shall be 10.5% per annum or the rate of interest charged by the Kerala State Co-operative Agricultural and Rural Development Bank on the funds advanced by them for the purpose whichever is higher from time to time and that theloan shall be repayable in wquated monthly instalments comprising principal and interest calculated on a monthly reduced balance methode and that the maximum amount of the loan shall be limited to Rs.2 lakhs only (Rupees two lakhs only) for construction of new house and Rs 40,000/- (Rupees forty thousand only) for repairs.

SRO. No. 149/2001 G.O.(P).No.35/2001/Coop dated 12-2-2001 K.G.Ex.Vol.46 No. 254

Kerala State Co-operative Bank Ltd

Government of Kerala hereby exempt the Kerala State Co-operative Bank Ltd.from the provision of subsection (1) of Section 59 of the said Act and from subrule (1) of Rule 56 of the said Rules, for the limited purpose of enabling the said Bank to provide a long term loan of Rs 5.50 crores (Rupees five crores fifty lakhs only) for a period not exceeding ten years to Badakara Sahakarana Asupathri Limited No.2411 subject to the guidelines of NABARD and on satisfying the other terms and conditions as may be applicable for the said purpose.

SRO. No. 935/2003 G.O.(P) No. 193/2003/Coop dated 7-10-2003 K.G.Ex. Vol.48 No.1841 and SRO No. 1201/3003 G.O.(P) No. 282/2003/Coop dated 23-12-2003 K.G.Ex. Vol.48 No.2415

Kerala State Co-operative Bank Ltd and District Co-operative Banks

Government of Kerala hereby exempt the Kerala State Co-operative Bank Ltd and District Co-operative Banks from the provisions of sub-section (1) of Section 59 of the said Act and from subrule (1) of Rule 56 of the said Rules for the limited purpose of enabling the said societies to provide housing loans up to Rupees 10.00 lakhs (Rupees ten lakhs only) to individuals for a period exceeding five years subject to the guidelines issued by NABARD from time to time in this regard and on satisfying the terms and conditions mutually agreed upon for the purpose.

SRO. No. 652/2004 K.G.Ex. Vol. 49 No.1317 dated 23-6-2004

Vanitha Co-operative Societies

Government of Kerala hereby exempt the Vanitha Co-operative Societies in the State from the provisions of sub-section (1) of Section 59 of the said Act for the limited purpose of enabling the said societies to provide loans to Self Help Groups organised under the said societies.

SRO. No. 706/2004 G.O.(P) No.154/2004/Coop dated 26-6-2004 K.G.Ex. Vol. 49 No.1444

Primary Agricultural Credit Societies

Government of Kerala hereby exempt the Primary Agricultural Credit Societies in the State from the provisions of sub-section (1) of Section 59 of the said Act for the limited purpose of enabling the said societies to provide loans to the Neighbourhood Groups organised under the said societies.

SRO. No. 945/2004 G.O.(P). No.220/2004/Coop dated 13-8-2004 K.G.Ex. Vol. 49 No.1893

UNDER RULE 56 (1)

Government Secretariat Staff Co-operative Society Ltd. No. 2620

Government of Kerala hereby exempt the Government Secretariat Staff Co-operative Society Ltd. No. 2620, Thiruvananthapuram, from the provisions of sub-rule (1) of rule 56 of the said Rules for the limited purpose of enabling the said society to grant long term loans to its members for periods upto 100 months.

SRO.No. 1097/2000 G.O.(P) No. 150/2000/Coop dated 20-11-2000 K.G.Ex. Vol. 45 No. 2098

Agricultural and Non-agricultural Credit Societies

Government of Kerala hereby exempt all Agricultural and Non-agricultural Credit Societies having deposits exceeding Rs.10 crores from the provisions of sub-rule (1) and (3) of rule 56 of the Kerala Co-operative Societies Rules, 1969, for the limited purpose of enabling the said societies to advance Housing Loan to its members for periods exceeding five years subject to the availability of funds.

SRO.No. 1099/2000 G.O.(P) No. 151/2000/Coop dated 22-11-2000 K.G.Ex. Vol. 45 No. 2108

District Co-operative Banks

Government of Kerala hereby exempt all the District Co-operative Banks in the State, from the provision of sub-rule (1) of rule 56 of the said Rules for the limited purpose of enabling the District Co-operative Banks to grant long term loans to the Primary Agricultural Credit Societies, for deposing the amount in the Treasury Small Savings Fixed Deposit Certificate Scheme for periods exceeding five years but not exceeding Six years and six months.

SRO.No. 103/2001 G.O.(P) No. 24/2001/Coop dated 27-1-2001 K.G.Ex. Vol. 46 No. 177

Kerala State Co-operative Bank

Government of Kerala hereby exempt the Kerala State Co-operative Bank from the provision of sub-rule (1) of rule 56 of the said Rules for the limited purpose of enabling the said Bank to grant loans for a period upto 10 years, depending upon the repaying capacity of the borrowers / Units, subject to the concurrence of National Bank for Agriculture and Rural Development and on satisfying the terms and conditions mutually agreed upon, for the purpose.

SRO.No. 1174/2003 G.O.(P) No. 259/2003/Coop dated 8-12-2003 K.G. Ex. Vol. 48 No. 2374

CASE LAWS

One time Settlement Co-operative Societies Act, 1969 (Kerala) - Sections 66 and 66A - Registrar has no power to issue Circular No. 35/01 directing Co-operative Societies to permit the borrowers to settle the outstanding loan at the document rate or at the then existing rate, whichever is less excluding penal interest and compound interest.

2005 (3) KLT 483 DB Kallettumkara Service Co-operative Bank v/s Registrar of Co-operative Socieites

Collection of penal interest on interest Co-operative Societies - Loans - Collection of penal interest on interest - Bye-law provision not clear - Agreement provides levy of penal interest only on the defaulted principal amount - Subsequent directions can apply only to the loans sanctioned and issued thereafter - No penal interest on defaulted interest

2005 (2) KLT SN 15 C 17 Primary Co-operative Agricultural Development Bank Ltd v/s State of Kerala

Sale of vehicle Hire Purchase Act, 1972 - Hire Purchase transaction - Sale - Legality of - Vehicle repossessed without terminating agreement - Intention to sell not intimated - Sale effected in an haphazard manner - Cannot escape from the non-compliance of the procedural formalities - Sale not valid. *In this judgment* **AIR 1934 Nag 151** *is distinguished.*

2005 (1) KLT 226 DB Business Bankers v/s Anandan

Award of differential rates of interest Interest Act, 1978 - Section 3 – Restitution – Award of differential rates of interest – Comparison by SCB with the decree in favour of CANFINA and against Citibank is wholly irrelevant and contention of unjust enrichment is misplaced – See – Interest.

2004 (8) SCC 348 DB Citibank N.A. v/s Standard Chartered Bank

Agreement a loan transaction even though referred to as a hire purchase finance agreement Hire Purchase Act, 1972 – Section 2 (c) – Agreement – Whether hire purchase agreement or loan agreement – The customer entered into agreement with finance company for purchase of vehicle – Vehicle was purchased in the name of customer and the ownership was with the customer only – Intention of parties was only to secure payment – The agreement is loan transaction even though referred to a hire purchase finance agreement.

A hire-purchase agreement may in substance be a loan transaction and the label of such an agreement is not conclusive. It is open to the Court to determine whether a particular agreement is loan transaction or hire-purchase agreement. The parameters to be applied are laid down, inter alia, in the judgment of the Supreme Court in Sundaram Finance Ltd.'s case (AIR 1966 SC 1178). Thus where the customer entered into agreement with finance company for purchase of vehicle and the vehicle was purchased in the name of customer and the ownership was with the customer only and intention of parties was only to secure payment, the agreement in question would be loan transaction even though referred to as hire purchase finance agreement.

2003 (3) KLT 397 Tarun Bhargava v/s State of Haryana

Mortgagee is not entitled to get any value of improvements Mortgage – Value of improvements – Mortgagee is not entitled to get any improvements which has been effected after the deposit of the mortgage money and value of improvements.

When the mortgage money is deposited with notice there would not remain any debt from the mortgagor to the mortgagee and, therefore, the mortgage can no longer continue after the mortgage money is paid. Thus on payment of the mortgage money or deposit before court by the mortgagor, the mortgage comes to an end and the right of the mortgagee to remain in possession also co-terminous. Thereafter, the mortgagee continues in unlawful possession, In such circumstances, the mortgagee is not entitled to get any improvements which has been effected after the deposit of the mortgage money and value of improvements.

2003 (3) KLT SN 204 Chinnathampi Nadar v/s Ponnamma

Tests to determine whether the deed is a licence or lease Deeds – Suit for recovery of possession – Transaction whether lease or licence – Document styled as a licence whether actually a lease – Depends on the intention of the parties – Regard must be more to the substance than to the form of the transaction – To be determined by law and not by the label.

In deciding whether a grant amounts to a lease or only a licence, regard must be had more to the substance than the form of the transaction. It is determined by the law and not by the label the parties choose to put on it. To give exclusive possession, there need not be express words to that effect. It is sufficient, if the nature of the acts done by the grantee show that he has and was intended to have the right of exclusive possession. The fact that the agreement contains a clause that no tenancy is to be created will not of itself preclude the instrument from creating a lease.

2003 (3) KLT SN 178 Sreenivasan v/s Muhammed Ismail

Government servant standing as surety for loan transaction Section 37 – Surety – Default in payment by principal debtor – Being a surety, the said Government servant has equal liability as the principal debtor for repayment of the loan amount – Held, it can be recovered from Death-cum-Retirement Gratuity of surety.

The provision in the Statute can only be understood as an enabling provision for recovery of the dues. A strict interpretation that salary paid from month to month alone could have been recovered, basically will be erroneous if not absurd.It will tend also to nullify the terms of the agreement entered into between the petitioner and the Bank. In view of the wordings of S.37, as referred to earlier, it need not be examined as to whether provisions of the Kerala Service Rules are offended. Of course the ruling below R.124 of Part III K.S.R. refers to a position that DCRG is not attachable by a Court of Law. But, the principles cannot be imported because of two reasons. The first is that there is no attachment by a Court of law in the present case. Secondly, in view of S.37, application of the rule itself will be out of place. As a matter of fact, in such cases, and adjudication as referred to in the Kerala Service Rules is not called for.

2003 (3) KLT 156 Surendran v/s Mavelikkare Primary Co-operative Agriculture and Rural Development Bank Ltd

Guidelines to be followed by all finance companies before repossessing a vehicle Hire Purchase – Hire Purchase Act – Finance companies – Repossession of vehicle as a result of default in repayment of monthly instalments.

The following guidelines to be strictly followed by all finance companies before it exercises its power to repossess a vehicle:- (i) Whenever a cheque is not honoured for payment, it would be immediately brought to the notice of the borrower by issuance of a notice under registered post, to be posted at the address provided by the borrower and proof of dispatch by registered post at the given address would be considered as sufficient proof of service of notice. (ii) 7 days time should be given reckoned from the date of service of the registered notice for clearance of the amount under the dishonoured cheque. (iii) In case of second dishonour of cheque similar notice be provided drawing the attention of the borrower to the term of agreement entitling the lender to recall the entire loan. This notice should again give 7 days time to the borrower to pay the outstanding amounts as on date. The 7 days time to be reckoned from the date of service of the notice. (iv) If the amount is not paid, it would be open to the finance

company in exercise of its power under the finance agreement to recall the loan. If it exercises of this power another notice be given to the borrower intimating that the loan has been recalled and the borrower should be called upon to tender the amount due within 7 days of receipt of notice. The notice again be sent by registered post at the address given by the borrower, (v) If no amount is paid within the stipulated period as per the notice. Finance company would be authorised to repossess the vehicle but this power of repossession would not entitle the finance company to track the vehicle white plying on the road. (vi) In case the borrower refuses to sign the papers when the care is repossessed, on repossession of the vehicle, immediate imformation be provided by the finance company to the local police intimating the time and place when the vehicle was repossessed.

2003 (2) KLT 1054 DB Bhagya Products v/s Commissioner of Police

Pendente lite and future interest Section 34 and 35, CPC - Pendente lite and future interest - A person cannot claim enhanced rate of interest as a matter of right - Depends upon the facts and circumstances of each case.

2003 (1) KLT SN 50 = 2003 (1) KLJ NOC 6 Punjab and Sind Bank v/s Ramji Dass Khanna and another

Distinction between release deed and deed of conveyance Deeds and Documents – Distinction between release deed and deed of conveyance - Explained.

There can be no release by one person in favour of another who is not already entitled to the property as co-owner. A release deed is valid not only when it is gratuitious and it can be validly executed also for some benefit accruing to the releaser simultaneously. Where the property is owned by two co-owners each having an undivided half share in the property and one of them by a deed effaces himself in respect of his title and right to possession in favour of the other, the document is release and not a conveyance.

2003 (1) KLT SN 28 Palani Velu v/s Sub Registrar

Adverse Possession A mixed question of law and fact - Existence of possession as well as animus possidendi are essential conditions - Clean and unequivocal assertion of title to the land by the possessor inidicative of animus possidendi - Period for the purpose of reckning adverse possession commences from the date both actual possession and assertion of title are shown to exist--Mere fact that a building was constructed by the possessor of the land with the permission of court does not make the possession a permissive possession - Lessee of an Inamdar cannot acquire title to the land by adverse possession- Although neither passsing of an order against the possessor, nor filing of application before statutory authority under Inams Abolition Act for occupancy rights would cause iterruption in continuity of his possession but it would abrogate his animus to hold the land in derogation of the title of the owner (State in this case) and would break the chain of continuity of the animus.

AIR 2002 SC 1012 = 2002 (3) SCC 258 DB Konda Lakshmana Bapuji v/s Government of A.P. and others

All small agricultural debtors even if their debts have not become overdue as on 29.12.2001 are entitled to the benefits of the Act Agricultural Debtors (Temporary Relief) Act, 2001 - Section 2 (v), 5 - In the case of all those small agricultural debtors even if their debts have not become overdue as on 29.12.2001, they are entitled to the benefit of the Act.

The Act intends to provide temporary relief to those agriculturists whose total principal amount of debt does not exceed Rs.50,000/- as on 29-12-2001. Therefore, in the case of all those small agricultural debtors even if their debts have not become overdue as on 29.12.2001 they are entitled to the benefits of the Act. In other words, in the case of the agriculturists in whose cases there is an existing loan arrangement, they are entitled to those benefits of tax holiday for six months, rescheduling of the loan and reduced rate of interest. Providing a restricted meaning the word "debt" in the case of only those agriculturists whose debts have become overdue would defeat the very purpose of the Act.

2002 (2) KLT 648 = ILR 2002 (2) Ker 543 Narayanikutty Amma v/s Registrar of Co-operative Societies

Mere payment of amount does not make the document a lease if it is otherwise a mortgage Deeds - Lease or mortgage - A reading of the whole document shows that the property was given as security for the purpose of loan given to the mortgagor. A charge is also created in the mortgage. As rightly held by the court below, Ext. A3 document is a mortgage and not a lease.

2002 (2) KLT 589 = ILR 2002 (2) Ker 583 = AIR 2002 Ker 313 = 2002 (1) KLJ 880 DB Aboobacker Babu Haji v/s Pathummakutty Umma

Penal interest cannot be capitalised Section 27 A - At times the interest charged and capitalised is manifold than the amount actually advanced. Rule of damdupat does not apply. Penal interest, service charges and other overheads are debited in the account of the borrower and capitalised of which debits the borrower may not even be aware. If the practice of charging interest on quarterly rests is upheld and given a judicial recognition, unscrupulous banks may resort to charging interest even on monthly rests and capitalising the same. Statements of Accounts supplied by banks to borrowers many a times do not contain particulars or details of debit entries and when written in hand are worse than medical prescriptions putting to test the eyes and wits of the borrowers, Instances of unscrupulous, unfair and unhealthy dealings can be multiplied though they cannot be generalised. Suffice it to observe that such issues shall have to be left open to the adjudicated upon in appropriate cases as and when actually arising for decision and we cannot venture into laying down law on such issues as do not arise for determination before us.

2002 (1) KLT 743 = 2002 (1) SCC 367 = 2001 (2) KLJ 849 FB Central Bank of India v/s Ravindra

Suit for declaration of title and for recovery of possession There is no need for the absolute owner to refer to his title deeds in the document executed by him conveying his interest in the property in favour of his assignee or donee - Plaintiff can succeed only if they can establish title and possession on the property.

It is true that the plaintiffs can succeed in a suit based on title only by proving the case pleaded by them and not on the weakness of the defence case. Therefore, it is clear that in the above suit seeking declaration of title and recovery of possession the plaintiffs can succeed only if they established their title to and possession of the plaint schedule property claimed by them. *In this judgment* **1988 (1) KLT 856** *and* **1997 (7) SCC 137** *are referred to.*

2002 (1) KLT SN 57 = AIR 2002 Ker 133 Raman Pillai v/s Kumaran Parameswaran

Agreement to pay interest at 5% over the Reserve Bank rate Banking Regulation Act, 1949 - Interest - Agreement to pay interest at 5% over the Reserve Bank rate - Failure to contest the matter before the trial or appellate Court - Cannot contest it before the execution court.

If the parties agree that in respect of the amount advanced against a mortgage, compound interest would be paid, the court cannot interfere and reduce the amount of interest agreed to be paid on the loan so taken. In view of the said decision and considering the fact that under the promissory note executed in favour of the Respondent-Bank, the revision petitioner had agreed to pay interest at 5% per annum with quarterly rests and considering the fact that even after getting knowledge of the case he failed to contest the matter before the trial court or even to challenge the same before the appellate court, I am of the view that it is futile for him to contend before the execution court that the amount allowed by the decree cannot be realised from him.

2001 (3) KLT SN 36 P 26 = ILR 2001 (3) Ker 287 George v/s New Bank of India

When the decree pertains to commercial transaction, court can exercise a discretion to award more than 6% and award contractual rate of interest Section 34 - Interest accumulated with principal at the end of quarter becomes principal at the end of quarter becomes principal and never thereafter ceases to be dealt with as principal - When the decree pertains to commercial transaction, court can exercise a discretion to award more than 6% and award contractual rate of interest - Banking Regulations Act, 1949, Sections 21 & 46.

The banking transactions in our country are controlled by Banking Regulation Act, 1949. Amendments are made to that legislation from time to time so as to provide sufficient power to the Reserve Bank of India to control the functioning of the Commercial Banks and other banking companies. According to Section 21 of the Banking Regulations Act, 1949, powers have been given to the Reserve Bank of India

to control advances by banking companies. Nationalized banks charge a particular rate of interest in pursuance of the Reserve Bank's direction and those Banks are justified in demanding such interest, otherwise the banks would be violating Section 21 attracting penalty provided under Section 46 of the Banking Regulations Act. The Banking Regulation Act 1949, is the most important enactment which governs the charging of the rate of interest by the banks. In fact sweeping powers have been given to the Reserve Bank of India for issuing proper directives to that effect. Nationalised banks and banks in the co-operative sector are also bound by the directives given by the Reserve Bank of India. Such directives oblige the bank to charge interest with quarterly rests and half-yearly rests interest on commercial and other transactions. *In this judgment* **1962 KLT 184, 1991 (2) KLT 226, 1995 (2) KLJ 407 and ILR 1995 (1) Ker 399** *are referred to.*

2001 (2) KLT 720 = 2001 (2) KLJ 223 = ILR 2001 (3) Ker 95 Indian Bank v/s Prabhu

Interest upon interest Interest Act, 1978--S.3 (3) (c) - Interest on delayed payment held, is not interest upon interest.

2001(2) SCC 623 DB Jit Ram Shiv Kumar v/s National Insurance Company Ltd

Appellant trespassed into Government property fully knowing well that it does not belong to it and that it is not entitled to the benefit Transfer of properety Act, 1882 - Section 51 – "Believing in good faith that he is absolutely entitled to" – The possession must not have been by mere permission of another – Must be under the honest belief that he has secured good title to the property in question and is the owner thereof.

In order to entitle an occupant of land to claim compensation, as a general rule, it is necessary that he must have held possession under colour title, his possession must not have been by mere permission of another but adverse to the title of the true owner and he must be under the honest belief that he has secured good title to the property in question and is the owner thereof. So far as the present case is concerned, as already stated, appellant was not able to prove that the property from which it was evicted, was included in the lease deed. If that be so, it cannot be said that he is entitled to get the benefit of improvement. Here, it is a case where the appellant trespassed into Government property fully knowing well that it does not belong to it and that it is not entitled to the benefit of S.51. *In this judgment* **AIR 1965 SC 1812, 1866 (6) WR 228, AIR 1929 PC 163, 1865-66 (1) HL 129, AIR 1973 SC 2498** *and* **1963 KLT 750** *are referred to.*

2000 (3) KLT SN 18 P 16 = ILR 2000 (3) Ker 403 DB Emerald Valley Estate Ltd v/s State of Kerala

Cogent reason and supporting circumstance shall be made out for exercise of any discretion to reduce the interest payable from the contractual rate of interest agreed upon by the parties Civil Procedure Code - Section 34 –

Proviso – Commercial transaction between bank and customer – Court would award the interest which is permissible in terms of the proviso to Section 34 unless the court has some clear and cogent reason.

On the materials it is clear that the transaction entered into by the defendants with the plaintiff bank is a commercial transaction. Amounts were advanced for the business of the defendants. In such a situation, normally the court would award the interest which is permissible in terms of the proviso to S.34 of the Code of Civil Procedure unless the court has some clear and cogent reason for not granting the interest as provided for by the proviso. In this case no circumstance is made out for exercise of any discretion to reduce the interest payable from the contractual rate of interest agreed upon by the parties at the time of the transaction. *In this judgment* **1990 (1) KLT SN 44** *is reversed.*

2000 (1) KLT SN 26 P 24 Union Bank of India v/s Kumaranunni Nair

Liability for payment of interest is automatic and mandatory Natural justice – Hence question of giving any show cause notice prior to the fixing of the liability for payment of interest, by an order, does not arise – There is no breach of any principle of natural justice as the assessee is entitled by the statute to apply for reduction or waiver of the amount by showing proper cause –See Income-tax Act, 1961, Ss.234A, 234B & 140A(1).

1999 (3) KLT 813 DB Commissioner of Income-tax v/s Ramalingair

If the principal debtor has paid a substantial portion of the loan amount, the guarantor need pay only the balance Contract Act - Sections 140 and 145 - Surety is entitled to recover from the former, whatever sum, the latter had rightfully paid under the contract of guarantee.

1999 (3) KLT 530 = ILR 1999 (3) Ker 830 Aboobacker v/s Ayishu

Clog on equity of redemption Transfer of properety Act, 1882 - Section 60 – Clog on equity of redemption when arises – Provision that if the mortgagor failed to tender the mortgage money within four months of the expiry of the term of the mortgage which was five years, the property would be deemed to be owned by the mortgagee with the mortgage amount originally advanced being treated as the purchase price, is invalid as a clog on redemption.

The Supreme Court has not postulated that any enquiry into the circumstances surrounding the transaction was called for in deciding whether the same would be a fetter on the right to redemption. In the case on hand, the term by itself amounts to a clog on redemption and hence is not liable to be given effect to or to have the effect of depriving the mortgagors of their right to redeem the mortgage in the present suit. Thus on the point sought to be raised on behalf of the defendants at the time of argument it is to be held that the Courts below were right in holding that the right of the mortgagor to redeem survives and the clause in question has to be held to be inoperative as a clog on redemption. *In this judgment* **AIR 1958 SC 770** *and* **1900 (3) All ER 34** *are relied on.*

1999 (3) KLT 189 Mohammed Moideen v/s Mohammed Moideen

Crop loan to agriculturists on mortgage Interest – Claim of – Suit for realisation of amounts advanced as 'crop loan' to agriculturists on mortgage – Interest 'pendente lite'.

The discretionary power of the court can be exercised only in the absence of contract rate and if the contract rate is available such rate shall be awarded for the period from the date of the suit till the passing of the decree. But at the same time if the rate of interest is penal and usurious, the court has discretionary power to fix the reasonable rate of interest depending on the facts of each case. We say so because it has been laid down that the word 'may' in the main part of O.34, R.11 governs all sub-clauses of O.34,R.11. *In this judgment* **AIR 1969 SC 600, AIR 1927 PC 1, AIR 1940 FC 20** *and* **AIR 1998 SC 1101** *are relied on.*

1999 (2) KLT 234 = ILR 1999 (1) Ker 503 DB Aboobacker v/s Canara Bank

Claim for compounded interest not justified in crop loan Civil Procedure Code - Section 34 - Suit on mortgage for recovery of loan amount advanced to agriculturists as crop loan - Claim for compounded interest not justified.

'Crop loans' as also term loans extended for agricultural development including irrigation, purchase of farms, equipments etc., are agricultural loans granted to the farmers. Since January 1980 guarantee cover has been extended to term loans granted to the farmers. When such protections are given for agricultural development, it is totally strange to have compound interest or the practice of quarterly or half-yearly rests. The court below therefore acted illegally in awarding compound interest with half-yearly or quarterly rests. *In this judgment* **1980 (2) Kant LJ 495** *and* **AIR 1986 Kant 242** *are relied on.*

1999 (2) KLT 234 = ILR 1999 (1) Ker 503 DB Aboobacker v/s Canara Bank

Surety's liability is coextensive with that of the Principal debtor Section 128 ;-Surety's liability is coextensive with that of the Principal debtor unless otherwise provided in the agreement between the parties. Surety can be proceeded against without proceeding first against the principal debtor. *In this judgment* **(1598) 5 Co. Rep. 99 b Rooke's Case, (1609) 10 Co. Rep. 139 a Keighley's Case, (1925) AC 578 Roberts v/s Hopwood, 18911 AC 173 Sharp v /s Wakefiled, AIR 1969 SC 297 Bank of Bihar v/s Damodar Prasad, AIR 1986 SC 868 State Bank of India v/s M/s Saksaria Sugar Mills Ltd, AIR 1992 SC 1740 State Bank of India v/s M/s Lindexport Registered** *and* **1998 (1) KLT 38 State Bank of India v/s Herman** *are referred to.*

ILR 1999 (3) Ker 91 = 1999 (2) KLT 189 = 1999 (1) KLJ 906 Kerala State Financial Enterprises Ltd v/s C.J. Thampi

The principle of lis pendens Transfer of properety Act, 1882 - Section 52 – The principle of lis pendens does not apply to previously existing transfers including mortgages.

Before the date of sale, on 15.3.1976, the suit instituted by the first respondent was finally disposed of and therefore, 1st respondent was not affected by the sale

concluded on 15.3. 1976 in favour of the appellant, Hence, there is no lis pendens. However, when this is one of the points raised in the reference, we feel that a principle can be laid down. Accordingly, we lay down that the principle of lis pendens does apply to the previously existing transfers including mortgages. *In this judgment* **1958 KLT 836** *and* **1973 (1) SCR 139** *are followed,* **AIR 1931 All 466 FB** *is dissented from and* **AIR 1958 All 24** *is referred to.*

1999 (1) KLT 637 = 1999 (1) KLJ 702 = ILR 1999 (3) Ker 1 = AIR 1999 Ker 213 FB Kerala Financial Corporation v/s Syndicate Bank

In respect of loan advanced for agricultural purpose certain rates of interest would be paid Civil Procedure Code - Section 34 – Interest – In respect of loan advanced for agricultural purpose certain rates of interest would be paid – Court should not interfere and reduce rate of interest – See – Banking Regulation Act 1949, S.21A.

AIR 1999 Ker 421 DB K. Pushpangadan v/s Federal Bank Ltd, Alwaye

Unregistered mortgage is not enforceable in law Section 58 (f) of T.P. Act - Unregistered mortgage is not enforceable in law - Promissory not executed on the same date endorsing the deposit on the same date endorsing the deposit of title- Suit must be filed within three years-Limitation Act, 1963, S.5.

Delivery of document of title alone in sufficient to create an equitable mortgage under the Section. There is no necessity to execute any document. In case, a document as executed for that purpose of creating a mortgage under S.58(f) of the Transfer of Property Act, it requires registration. For creating an equitable mortgage, there must be a debt, there must be a deposit of title deeds and that intention of the parties should be that the title deeds were deposited only for the purpose of giving securiy of the proprety covered by the title deed. When the memorandum or letter was executed on the date of the deposit or delivery of the title deeds, that needs registration. And after the delivery of the title deed, any letter or memorandum was executed endorsing the earlier deposit of title which already created a mortgage, that letter need no registration. *In this judgment* **1961 (2) MLJ 368 Intersain v/s MD Raza Gowher, 1996 (1) MLJ 179 Natesa Mudaliar v/s Munuswami Naidu, AIR 1965 SC 1591 United Bank of India v/s Leksharam S. & Co.** *and* **1979 (1) ILR 710 Sudarsan Trading Co. v/s Sankar** *are followed.*

1998 (2) KLT 125 = ILR 1998 (3) Ker 416 = AIR 1998 Ker 344 Hubert Peyoli v/s Santhavilasath Kesavan Sivadasan

The burden of proving that a transaction is hit by Section 53 is on the decree holder Section 53 - Fraud in a voluntary conveyance will be presumed only in so far as it concerns existing debts and no such legal presumption will be available as regards subsequent debts - The liability arising out of 'Kurichoondi Panayadharam' cannot be treated as a 'debt' - The burden of proving that a transaction is hit by S.53 is on the decree holder.

In the case of subsequent debts there must be proof of positive fraud in fact, to vitiate a voluntary conveyance. The mere fact of subsequent indebtedness is not evidence of a fraudulent intent against subsequent creditors. It is only subject to the above qualification subsequent creditors can successfully impeach and avoid voluntary conveyance under S.53 of the Act. While discharging the burden, a subsequent creditor impeaching the transfer may rely upon circumstantial evidence also though no direct evidence is available for establishing fraud. *In this judgment* **AIR 1993 SC 2063 M/s Shriram Chits and Investment (P) Ltd v/s Union of India** *and* **AIR 1983 Ker 178 FB Janardhana Mallan v/s Gangadharan** *are relied on and* **1994 (2) KLT 353 John v/s Oriental Kuries Ltd, 1990 (1) KLT 866 Mar Appraem Co. Ltd v/s Narendranth, 1987 (1) KLT 704 Ithakku Abraham v/s Kesavan Damodaran, AIR 1965 Mad 395 Umar Sait v/s Union of India, AIR 1947 All 383 District Board, Bijnor v/s Mohd. abdul Salam, AIR 1936 Lah 222 Mt. Bibo v/s Sampuram Singh** *and* **AIR 1927 Lah 420 Md. Ishq v/s Md. Yusaf** *are referred to.*
1998 (1) KLT 101 = 1997 (2) KLJ 610 = ILR 1998 (1) Ker 798 DB Chumar v/s Alima

Case that the testatrix was not in sound state of disposing mind at the time of execution of the Will No evidence that the testatrix was not in sound state of disposing mind at the time of execution of the Will - If there is no pleading to the effect that somebody exercised undue influence and fraud on the testatrix in the execution of the Will, the Will must be taken as genuine and executed on her own will and volition - Nobody can question the intention of the testatrix.

The allotment of sharing of the properties by a testatrix to the beneficiaries under a Will wholly depends upon the intention of the testatrix and nobody can question her intention when there are ample evidence and circumstances to show that her intention was to give a major portion to one party and a lesser portion to the other party. It is also seen in evidence that four years after the execution of Will the testatrix had passed away. Practically, there is no evidence that the testatrix was not in a sound state of disposing mind at the time of execution of Will or she was laid up with any illness or she was suffering from Rheumatism. When the above circumstances, in fact, are examined on the basis of the principles laid down by the Supreme Court it is quite clear that those circumstances are not at all suspicious surrounding the execution of the Will or they are not sufficient to hold that the testatrix was not in a sound state of mind at the time of the execution of Will.
1998 (1) KLT SN 58 P 62 Sulochana v/s Nani

Distinction between lease and licence Deeds - Matters to be considered. The tests to be considered for determining whether a document is a lease or licence are : (1) substance of the document; (2) intention of the parties; (3) the interest created in the property; and (4) legal possession. In this context, we have to bear in mind that the exclusive possession of the land will not create a licence.
1998 (1) KLT SN 52 P 55 = 1998 (1) KLJ 500 = ILR 1998 (2) Ker 631 = AIR 1998 Ker 265 Saramma George v/s Ammini Mammen

Only when latter clause cannot be reconciled with earlier one, the latter provision will be void Deeds - Construction of - In partition deed properties allotted to certain persons absolutely - Subsequent clause providing that on their death the property will devolve on certain other members - no conflict between the two clauses - Latter clause is valid - Only when latter clause cannot be reconciled with earlier one, the latter provision will be void.

In the case of a gift, when the donor relinquishes his right in favour of the donee, he cannot by making subsequent provisions restrict it or withdraw it without the consent of the donee who gets right by such absolute disposition. In a partition deed, where the person who obtains the interest is also a party, there will be no such disability as in the case of a gift. It is true that clause & does not state that it is subject to the provisions in the document, but still the general provision in clause 8 must be read with the subsequent clauses. This is not a case where two parts of the document cannot be read together and reconciled. Only in such a case, the latter provision can be considered as void as held in the decision of the Supreme Court. *In this judgment* **AIR 1963 SC 890 Ramkishore Lal v/s Kamal Naraian, AIR 1953 TC 115 Subrammanian v/s Kanni Ammal, 1957 KLT 407 Krishna Kumaran v/s Mathew J. Mattom, 1957 KLT 1119 Mathew Thommen v/s Paily Ulahannan** *and* **ILR 8 All 452 Maharam Das v/s Ajudhia** *are referred to.*

1997 (2) KLT 351 = ILR 1997 (3) Ker 480 = 1997 (1) KLJ 767 DB Saraswathy Amma v/s Bhavani Rajamma

Maintenance from the profits of immovable property, on transfer of such proerty can be enforced against the transferee Section 39 of T.P. Act - If a person has a right to receive maintenance from the profits of immovable property and such proerty is transferred, the right can be enforced against the transferee if he has notice thereof -Need not prove that the transfer was with the intention of defeating such a right.

Section 39 is the amended provision by the Amending Act 20 of 1929. Before the amendment, it was necessary to prove that the transfer was with the intention of defeating such a right. This is taken away under the amendment. *In this judgment* **AIR 1947 PC 8 Dan Kuer v/s Sarala Devi 1985 KLT 1001 Divakaran v/s Chellamma** *and* **AIR 1979 Mad 200 Raghavan v/s Nagammal** *are relied on.*

1997 (1) KLT 559 = 1997 (1) KLJ 275 = ILR 1997 (3) Ker 544 = AIR 1997 Ker 306 Ramankutty v/s Amminkutty

Conditional sale or a sale with condition to purchase Deeds - Interpretation of - While construing a document which is a mortgage by conditional sale or a sale with condition to purchase, intention of the parties should be decided by considering and construing the recitals in the document and other attendant circumstances.

1997 (1) KLJ 213 = AIR 1997 Ker 173 E. Mohammed v/s Velayudhan and Another

The character of a deed cannot be altered by pleadings Deeds - Interpretation of - The parties could not by their pleadings alter the intrinsic character of the lease or bring about a change of the rights and obligations flowing therefrom. The court would only look into the terms of the lease irrespective of the averments in the pleading. *In this judgment* **AIR 1981 SC 1550 = 1981 (2) SCC 199 Shanti Devi v/s Amal Kumar Banerjee** *and* **AIR 1989 SC 1834 Provash Chandra Dalui v/s Bishwanath Banerjee** *are relied on.*

1997 (1) KLJ 213 = AIR 1997 Ker 173 E. Mohammed v/s Velayudhan and Another

Mortgage and Charge - distinction of In every mortgage there is a charge, but every charge is not a mortgage.

As observed by Da. J. in Raja Sri Shiva Prasad v/s Beni Madhav that 'The broad distinction between a mortgage and a charge is this that where a charge only gives right to payment of a particular fund or particular property without transferring that fund or property, a mortgage is in essence a transfer of an interest in specific, immovable property. A mortgage is a jus in rem, a charge a jus and rem and the practical distinction is that a mortgage is good against subsequent transferees and a charge is only good against subsequent transferees with notice". *In this judgment* **(1992) 1 Put 387 Raju Sri Shiva Prasad v/s Beni Madhav** *and* **(1945) MWN 654 Venkatachala Pillai v/s Rajagopal Naidu** *are referred to.*

ILR 1996 (2) Ker 35 Yusuf Kunju Thajudeen v/s Padmanaghary Narayanaru and others

Ambiguity or inconsistency between the earlier or subsequent recitals Only when there is inconsistency between two clauses the question whether which will prevail over the other need be considered.

In either case the above rule of interpretation will apply only when there is ambiguity or inconsistency between the earlier or subsequent recitals contained in the instrument. *In this judgment* **1993 (1) KLT 26 Prabhu v/s Madhava Prabhu, 1995 (5) SCC 444 Kaivalikkal Ambunhi and others v/s H. Ganesh Bahandry, AIR 1921 PC 209 Forbes v/s Oit and others** *and* **ILR 1974 Ker 539 Commissioner of Agricultural Income Tax v/s Naravath Lakshmi Amma** *are referred to.*

1996 (1) KLJ 656 Jose Joseph & others v/s K.C. Moideen

The document must be read as a whole Deeds - Interpretation of - The document must be read as a whole for ascertaining the true effect of a recital.

While reading the document as a whole, the court must supply efficacy to all the recitals in entirety and in fullest extent. It cannot ignore or efface one clause to preserve the other. *In this judgment* **(1917) 23 CLR 322 The Minister for Lands (New South Wales) v/s Jeremias, 1915 Ac 590 Toronto Suburban Railway Company v/s Corporation of the City of Toronto, AIR 1989 SC 1834 Chandra**

Dalui and another v/s Biswanatha Banerjee and another *and* **1834 (2) CI & F 194 Longston v/s Langston** *are relied on.*

1996 (1) KLJ 656 Jose Joseph & others v/s K.C. Moideen

What is relevant is the intention of the recitals Deeds - If the recitals are clear and unambiguous effect shall be given to them in entirety and the interpretations of the parties are not relevant then - What is relevant is the intention of the recitals.

While, reading the instrument as a whole, if the recitals are found to be clear and forthright it cannot be said tht there is ambiguity in the recitals. On the other hand if the recitals are not clear and afford doubts as to its true effects the ambiguity may be inferred. If the recitals are clear and unambiguous, the effect shall be given to them in entirety and there is no scope for hypothetical considerations. While, so examining the recitals contained in different clauses of an instrument the intentions of the parties are not relevant. What is relevant is the intention of the recitals. The court must apply the test what a reasonable man reading the recitals would understand them to mean and not what the party would have intended or meant. *In this judgment* **(1961) 1 WLR 170 Davies v/s Elsy Brothers Ltd, AIR 1954 SC 345 Chumchum Lah v/s Ebadat Ali** *and* **1986 KLT 1165 Muslim Educational Society v/s Pariyayi** *are relied on.*

1996 (1) KLJ 656 Jose Joseph & others v/s K.C. Moideen

Mortgagee cannot add the value of improvements to the mortgaged money for working out the total amount Debt Relief Act, 1977 (Kerala), Sections 2(4) and 3 - Mortgagee cannot add the value of improvements to the mortgaged money for working out the total amount due to them before redemption takes place for the purpose of showing that the amount of debt exceeds the limit fixed in the definition clause.

On the commencement of the Act, redemption of mortgage becomes an accomplished fact. The question of liability to pay compensation for value of improvements would arise only after accomplishment of redemption of the mortgage. Redemption of the mortgage is sine qua non for any claim to be made for value of improvements.

1996 (1) KLT 513 = 1996 (1) KLJ 507 = ILR 1995 (3) Ker 24 Sanku v/s R.D.O., Alleppey

Value of improvements can be claimed only through a properly instituted civil suit Sections 4 and 3 - If mortgagees are entitled to value of improvements, the same can be claimed only after recoveryance of the property in a properly instituted civil suit.

The statutory obligation to deliver possession is, despite the right created under any contract or law for entitlement to value of improvements. But it is worthy to note that Section 4 which empowers a debtor to apply to the Tribunal for reconveyance of the property is not circumscribed by any non-obstante clause as could be seen in Section 3. We discerned from the scheme of the Act the intention of the legislature not

to foreclose the right of any mortgagee to have the value of the improvements effected by him on the mortgaged property, even though the scheme of the Act did not incorporate any particular procedure for quantification or payment of such value of improvements. *In this judgment* **1986 KLT 725 Khadija Umma v/s Paru** *is referred to.*

1996 (1) KLT 513 = 1996 (1) KLJ 507 = ILR 1995 (3) Ker 24 Sanku v/s R.D.O., Alleppey

75% of the total requirement of agro machineries under scheme financed by banks or society to be purchased from RAIDCO Power of the Registrar to issue direction under Rule 56 (5) - Circular issued by the Registrar directing that 75% of the total requirement of agro machineries under scheme financed by banks or society should be purchased through Regional Agro Industries Development Corporation (RAIDCO) such restriction would be justifible if it is in public interest. Moreover amendment of Rule 56 (5) in 1989 gives Registrar the legal power to issue such directions. The society stands on a different footing from private traders of pump sets in the State. Constitution of India. Arts. 19 (1) (g), 19 (6). *This judgment was affirmed in* **1997 (1) KLT 388 SC.**

AIR 1996 Ker 26 George Kokkattumundayil v/s Joint Registrar of Co-operative Societies, Kannur and others

Validly creating an equitable mortgage Sections 58 (f) and 78 - In a case where duplicate partition deed along with the original is deposited bonafide by one of the executants of the partition deed or persons claiming through such executants to whom only a duplicate was given as his titles deed and not the original, deposit of original deed need be insisted only as a rule of prudence and caution and not as a legal requirement for the purpose of validly creating an equitable mortgage.

It will not be justified ignoring altogether the legally recognised peculiarities of duplicates of partition deeds and other deeds creating title in favour of more than one individual and equating it to a mere copy of document and applying the principles laid down in the decision dealing with copies to cases like the one on hand involving duplicate documents. In a case where duplicate partition deed registered along with the original is deposited bona fide by one of the executants of the partition deed to whom only a duplicate was given as his title deed and not the original. The learned Sub Judge was not justified in treating the duplicate as a mere copy and applying the principles governing cases where copies of title deeds alone are deposited and holding that duplicate can be accepted as title deeds for the purpose of creating equitable mortgage only when the original is lost. *In this judgment* **1980 KLT 550 Syndicate Bank v/s Modern Tile and Clay Works, 1961 KLT 434 Popular Bank Ltd v/s United Coir Factories, ILR 1990 (2) Ker 43 Assiamma v/s State Bank of Mysore** *and* **AIR 1983 All 90 Mamla Rajamanikkam v/s Sushila Thakar Dass** *are referred to.*

1995 (1) KLT 582 = 1995 (1) KLJ 484 = AIR 1996 Ker 32 State Bank of Travancore v/s Velayudhan Pillai

Mortgage Transfer of Property Act, 1882 - There cannot be any mortgage in the absence of a registered document.

ILR 1995 (2) Ker 404 = 1995 (1) KLJ 429 DB Ittuveettil Chandran v/s Potammal Radhakrishnan

Period of limitation Section 53 of T.P. Act - Period of limitation - Does not arise on the date of alientation but on the date when the creditor who seeks to set aside the alienation knows that he has been defrauded, defeated or delayed. *In this judgment* **AIR 1948 Bom 265 Abdallakhan v/s Purshottam, AIR 1967 Ker 171 State Bank of Travancore v/s Nanan** *and* **1973 KLT 31 Tharu Cheru v/s Mary** *are relied on.*
1994 (1) KLT 583 = 1994 (1) KLJ 520 Iyyuni v/s Anto

Interest subsidy at the rate of 5% on loans Co-operative Societies Act, 1969 (Kerala) - Interest subsidy at the rate of 5% on loans taken from Co-operative Credit Institutions by farmers/agricultural labourers under a scheme promulgated by Government.-Cannot be withdrawn after loans have been disbursed. The Government is bound to stand by the promise given.

After the loan was availed of Government changed the policy restricting the benefit of the scheme only to certain sections of farmers and fixing a limit for the maximum loan amount - Action of the Government not justified on the principles of promissory estoppel - Contentions that since the subsidy is payable at the time of the repayment of the loan and any promise made before the advancement of the loan is subject to variation before actual disbursement of the benefit, rejected - The orders effecting the change have to effect on loan advanced before it. *In this judgment* **AIR 1968 SC 718 Union of India v/s Anglo Afghan Agencies, AIR 1987 SC 590 Pournami Oil Mills v/s State of Kerala,** *and* **AIR 1988 SC 1247 Assistant Commissioner, Commercial Taxes v/s Dharmendra Trading Co.** *are relied on.*
1994 (1) KLT 535 Gopalakrishnan Kunikullaya v/s State of Kerala

Intention of the parties has to be gathered from the terms of the document Deeds - Interpretation of - When the terms are express and clear intention of the parties has to be gathered from the terms of the document - The Court can look into surrounding circumstances to ascertain the intention only if there is ambiguity in the language used - Oral evidence may guide the court in such a case and tendering of extrinsic evidence as to acts, conduct and surrounding circumstances is permissible to ascertain the real intention of parties. *In this judgment* **1985 KLJ 49 Narayani Amma v/s Narayanan Namboodiri, 1986 KLT 1165 Muslim Educational Society v/s Pariyayi, 1987 (2) KLT 994 Moideenkuty Haji v/s Muhammedali, 1988 (1) KLT 50 Gilber v/s Vivekanandan** *and* **AIR 1990 SC 1833 Raj Kumar Rajindra singh v/s State of Himachal Pradesh** *are relied on.*
1994 (1) KLT 345 = 1994 (1) KLJ 89 = AIR 1994 Ker 141 = ILR 1994 (2) Ker 83 = 1994 Civil Court Case 659 = 1994 (2) Cur CC 240 Hathika v/s Padmanabhan

Subsequent registration is not non-est Section 59 - Oral usufructuary mortgage subsequently registered - Is valid - Subsequent registration is not non-est merely on the ground that at the inception the mortgage was not registered.
1994 (1) KLT SN 25 P 27 = 1994 (1) KLJ 529 Mohanan v/s Dhanwanthari Das

Hire purchase agreement Hirer has right to take possession of the vehicle in case of default. *In this judgment* **AIR 1966 SC 1178 Sundaram Finance Ltd v/s State of Kerala** *is distinguished and* **AIR 1965 Pat 214 Enayathullah Khan v/s Jalan Trading Co. and another** *and* **AIR 1955 Nag 269 Nathulal v/s Balakrishnan** *are referred to.*
ILR 1986 (2) Ker 65 = 1986 KLT 997 = AIR 1986 Ker 206 Hameed v/s Jayabharat Credit and Investment Ltd and others

Retaking of vehicle Retaking of vehicle from the hirer on default of non-payment of monthly hire – Will not amount to any offence. *In this judgment* **AIR 1962 SC 586 Apparao v/s Lakshminarayana, AIR 1965 SC 585 Chandikumar v/s Abanidhar Roy, AIR 1966 SC 1178 Sunderam Finance Ltd v/s State of Kerala, 1979 (4) SC 396 Sardar Trilok Singh v/s Satya Deo Tripathi** *and* **AIR 1982 SC 949 State of West Bengal v/s Swapan Kumar** *are referred to.*
ILR 1986 (2) Ker 224 = 1986 KLJ 235 = 1986 KLT 430 Bharudan Dugar and others v/s S.I. of Police, Muhamma and others

A prized subscriber cannot compel a foreman to deposit the prize amount in fixed desposit Contract Act, 1872 - Sections 51 and 52 - A prized subscriber cannot compel a foreman to deposit the prize amount in fixed desposit in a Bank and treat the same as security for payment of future subscriptions. *In this judgment* **1872 LR 7 Ex 259 Bed Fent v/s Williams, 1924 (49) MLJ 300 Chenaravelu Chetty and sons v/s Akaram Venkanna and Son** *and* **1974 KLT 806 Achuthan v/s State Bank of Travancore** *are referred to.*
ILR 1977 (2) Ker 67 Hubert Peyoli v/s P.K. Viswan

Loan to non-members Lending of money to non-members can be recovered.
1971 KLT 837 Vasudevan Pillai v/s Kumarakam Central Vyavasaya Co-operative Society

Decree on compromise and decree on contest Bond given by surety when movables belonging to defendant attached – Decree on compromise and not on contest – Surety still liable. *In this judgment* **ILR 59 Cal 1450 Jai Bai v/s Joharmull, AIR 1937 Lah 34 Dalip Singh v/s Krishnan Chand, AIR 1931 Bom 55 Ahmed Karim v/s Maruti, AIR 1920 Mad 355 Appunni Nair v/s Issak Mackadam, AIR 1933 Mad 309 Annadana v/s Konammal** *and* **AIR 1935 Nad 16 Kabiruddin v/s Debisingh** *are followed and* **AIR 1926 Cal 818 National Coal Co. v/s Bose and Co., 1885 (44) LT 336 Tahim v/s Evans, AIR 1928 Cal 177 (2) Md. Yusaf v/s Ram Govinda Ojha, AIR 1932 Pat 313 Narsingh Mahton v/s Nirpat Singh, 120 IC 552 Kunj Lal v/s Paluk Prasad** *and* **31 Bom LR 1442 Mohomedali Ibrahimji**

v/s Lakshmibhai Anant Paland *are discussed and distinguished.*
ILR 1961 (2) Ker 213 = AIR 1961 Ker 312 DB Chakkunny v/s Viswanatha Iyer

Money lent to a non-member on the basis of an illegal contract can be recovered If the society lends money to a non-member on the basis of an illegal contract. It can be recovered on the ground that the obligee made an implied contract to repay.
AIR 1929 Lah 330 Nabi Bakshi v/s Mohammadi

ACT

S60. Restrictions on other transactions with members :- Save as is provided in Sections 58 and 59, the transactions of a society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

RULES

R57. Transactions with non-members :- Subject to the provisions under Sections 58 and 59, no society shall enter into any transaction with a person other than a member unless-

(a) the bye-laws of the society permit it for the purpose; or

(b) the previous sanction of the Registrar has been obtained by the society.

ACT

S61. Provident Fund :- (1) A society shall establish a contributory provident fund for the benefit of its employees, to which shall be credited all contributions made by the employees and the society in accordance with the rules or the Employees Provident Funds Act. 1952 (Central Act 19 of 1952) whichever is more beneficial.

[*Provided that the contributory provident fund established under this sub-section shall not apply to the employees of such society to which the provisions of the Self Financing pension Scheme framed under sub-section (1) of section 80A are made applicable and such society shall establish a Provident Fund in such manner and subject to such conditions or restrictions, as may be prescribed, for the benefit of such employees.]

(2) A [*Provident Fund, whether contributory or not] established by a society under sub-section (1)-

(a) shall not be used in the business of the society;

(b) shall not from part of the assets of the society;

(c) shall not be liable to attachment or be subject to any other process of any court or other authority;

(d) shall be deposited in the financing bank of the area.

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* Inserted and substituted by Act 16 of 1993

RULES

[*R58. **Provident Fund :-** (1) Every Society shall, establish a Provident Fund whether contributory or not, for its employees and frame regulations for the maintenance and the utilisation of the said Fund. Among other matters, such regulations shall provide for the following, namely:-

(a) in the case of Contributory Provident Fund,

[**(i) an amount not less than 8.33 per cent of the pay to be deducted from the salary of employee and credited to the Provident Fund as employees' contribution;

(ii) an amount at the rate of 8.33 per cent of the pay of the employee to be paid by the society as employers' contribution;

Explanation :- For the purpose of items (i) and (ii), the expression pay includes basic pay, special pay, personal pay, dearness allowance and any other amount ordered to be treated as pay such as consolidated pay etc.]

(iii) advances which may be made against the security of the Provident Fund and mode of recovery thereof;

(iv) refund of employee's contribution and contribution made by the society;

(v) mode of investment of the Provident Fund and payment of interest thereon.

(b) in the case of non-contributory Provident Fund,

(i) an amount not less than ten per cent of the basic pay to be contributed by an employee;

(ii) advances which may be made against security of the Provident Fund and mode of recovery thereof;

(iii) refund of the contribution made by the employee;

(iv) mode of investment of the Provident Fund and payment of interest thereon:

Provided that when the Employees provident Fund Act, 1952, is applicable to the society, and the provisions of that Act are more beneficial, the Fund shall be maintained in accordance with the provisions of that Act.

Provided further that the contributory provident fund established under sub-section (i) of Section 61 of the Act shall cease to operate in the case of existing employees brought under the Self Financing Pension Scheme framed under Section 80A of the Act.

(2) For an employee who enters the service of a Society on or after the date on which the Self Financing Pension Scheme is notified, Contributory Provident Fund shall not apply;

(3) The following amount shall be credited to the non-contributory Provident Fund established under Section 61 of the Act,

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*Substituted by SRO 538/98

**Substituted by SRO 326/2003

(a) the balance amount of employee's contribution together with interest thereon standing to the credit of the employee in the contributory provident fund on the date from which the Self Financing Pension Scheme is made applicable.

(b) The subscriptions made by the employees to the Provident Fund as per these rules.

(4) The Societies where Employees' Provident Fund Act, 1952, applies, prior approval from the Employee's Provident Fund Commissioner shall be obtained for the discontinuance of these employees from the Employees' Provident Fund.]

NOTES

Since the Pension Scheme comes under Section 80A of the Kerala Co-operative Societies Act, details of the scheme along with other schemes for the welfare of the employees are included in Volume II of this Book.

CASE LAWS

The case laws under this head are subdivided as follows.

1. Provident Fund general
2. Provident Fund under Employees Provident Fund And Miscellaneous Provisions Act, 1952
3. Provident Fund under Kerala Co-operative Societies Act

PROVIDENT FUND GENERAL

Liability of the Government to pay interest on the withdrawal amount would continue to extend till the actual date of payment Aided Schools Employees' Provident Fund Rules, 1967 (Kerala), Rule 14 (4) – The restriction in Rule14 (4) to the effect that interest will be payable only for the period as stipulated in rule 14(4) is arbitrary and unreasonable – Liability of the Government to pay interest on the withdrawal amount would continue to extend till the actual date of payment – Constitution of India, Art.14.

It has to necessarily follow that the liability of the Government to pay interest on the withdrawal amount would continue to extend till the actual date of payment. In the result, R.14(4) of the Kerala Aided Schools Employees' Provident Fund Rules, in so far as it restricts the payment of interest on the final withdrawal amount upto the end of the month preceding that in which the payment is made or upto the end of the sixth month after the month in which such amount became payable, whichever of these periods be less, is hereby struckdown. *In this judgment* **AIR 1985 SC 356, 1996 (11) SCC 116** *and* **1994 (6) SCC 589** *are referred to.*

1999 (2) KLT 362 = 1999 (1) KLJ 1017 Subraya Bhat v/s State of Kerala

PROVIDENT FUND UNDER EMPLOYEES PROVIDENT FUND AND MISCELLANEOUS PROVISIONS ACT, 1952

Courier service does not come within the definition of forwarding agencies Employees Provident Fund And Miscellaneous Provisions Act, 1952--Section 1 (3) Schedule 1 -- 'Courier services' does not come within the definition of 'forwarding agencies'--'Courier service' meaning of.

In Blacks Law Dictionary, 7th Edition, a courier is described in the following manner: "a messenger and the like." Whether a courier can have the status of a forwarding agent can also be examined from this angle, by attempting to examine the meaning assigned to the term "agent'. An agent is generally a person who is recognised as having competence to represent another person in his capacities, at certain levels, and on certain terms. Courier is only a messenger and he neither represents the principal, nor can be bind him in any manner. The scope, purport and connotation of the two arrangements are distinct and one is not synonymous for the another.

2002 (3) KLT 834 Unnikrishnan Nair v/s Regional Provident Fund Commissioner

Interest and damages Section 7 Q, 14 B - A member is entitled to get interest at the rate determined by the Central Government in consultation with the Central Board--Can be denied only if the member waives the right.

While Section 7 Q provides for interest at the rate of 12% for the belated payment in respect of any amount due from him under the Act, Section 14 B empowers the first respondent to recover damages equal to the amount of arrears. Under paragraph 60 of the Employees' Provident Funds Scheme, 1952 a member is entitled to get interest at the rate determined by the Central Government in consultation with the Central Board. That can be denied only if the member waives his right to get interest.

2002 (3) KLT SN 59 Joseph v/s Regional Provident Fund Commissioner

Act overrides all provisions of other enactments Section 11 (2) - State Financial Corporations Act, 1951, Section 46 B - Recovery of Provident Fund contribution - Section 11 (2) of Employees Provident Fund and Miscellaneous Provisions Act overrides all provisions of other enactments including Section 46 B of the State Financial Corporation Act.

Since Section 11 (2) of the E.P.F. & M.P. Act has been enacted later, we must ascribe to the Parliament the intention to override the earlier legislation also. It is, therefore, clear that Section 11 (2) of the E.P.F. & M.P. Act overrides all provisions of other enactments including Section 46 B of the S.F.C. Act. Firstly, Section 11 (2) of the E.P.F. & M.P. Act is subsequent in point of time and, therefore, must be taken to be the latest manifestation of the intendment of the Parliament. Secondly, the social purpose behind the amendment of Section 11 (2) is to protect the terminal social security dues of workmen, and therefore, needs to be given higher priority as intended by Parliament. *In this judgment* **1995 (2) SCC 19, 1974 (2) SCC 799, 1981 (2) All ER 855** *and* **1972 (83) ITR 494** *are referred to and* **2000 (7) SCC 291** *and* **1979**

(117) ITR 334 *are relied on.*

2002 (2) KLT 723 = ILR 2002 (3) Ker 4 DB Recovery Officer and Assistant Provident Fund Commissioner v/s Kerala Financial Corporation

Section 11 does not override the provisions of S.529A of the Companies Act Companies Act, 1956 S. 529A - It can be seen that provident fund will come under S.529A. Merely because there is an amendment including certain payments also in S.11 of EPF Act the overriding effect of S.529 will not be courtailed. Hence the contentions that over and above S.529A provident fund claim should be given prior charge than secured creditors cannot be considered and it can be considered only in pari passu along with claim of secured creditors under S. 529A. *In this judgment* **2000 (7) SCC 291** *is referred to.*

2001 (2) KLT 920 = ILR 2001 (3) Ker 209 Joseph v/s Offficial Liquidator

Contribution payable under the Employees Provident Fund is also a workmen's due Section 11 - Contribution payable under the Employees Provident Fund is also a workmen's due as defend under S. 529(3) (b)-See-Companies Act, 1956 S.529(3)(b)

2001 (2) KLT 920 = ILR 2001 (3) Ker 209 Joseph v/s Offficial Liquidator

Remuneration payable during lay off period is also salary Section 2 (b) - Remuneration payable during lay off period is also salary, as it is emolument payable during the lay off-Companies Act, 1956,S.529A.

What was directed to be paid is salary itself. Tribunal awarded salary during lay off period as lay off was illegal and it ought to have been paid during the respective periods prior to the period of winding up. Therefore, provident fund contributions ought to have been paid for the benefirt of employees and Official Liquidator is directed to include that also as admitted claim of the employees.

2001 (2) KLT 920 = ILR 2001 (3) Ker 209 Joseph v/s Official Liquidator

Act applicable even in respect of homeworkers engaged to roll beedis Sections 6, 1 (3) (b) and 2 (f) - Applicability of the Act - Held, applicable even in respect of homeworkers engaged to roll beedis through contractors.

2001 (2) SCC 612 DB S.K. Nasiruddin Beedi Merchant Ltd v/s Central Provident Fund Commissioner and another

Wages paid to workmen during a lock out is wages Section 2 (b) - Workmen need no be actually on duty or that he should have worked in order to attract provisions of the Act - Wages paid to workmen during a lock out is wages and Act will be attracted.

During the period of lock out the workmen may not have worked; yet for the purpose of the Employees' Provident Funds Act, they will be deemed to have been on duty and Provident Fund would be duductible on their wages. The employer's agreement with the employee not to deduct does not discharge the employer of his obligation in law to make payment. The term of the settlement which provides that there shall be no

deduction means that the appellant company has agreed to take on this liability also.

2001 (2) KLT SN 68 P 56 = 2001 (2) SCC 519 DB Shree Changdeo Sugar Mills v/s Union of India

Excluded employee S.2(f) and 2(ff) - Exempted employee, employee and excluded employee - A person appointed afresh after voluntary retirement would be deemed to be an employee - Provisions of Act will again be applicable to such employee unless exempted.

'Excluded employee' means a person who was at one point of time a member of the fund but has ceased to be such member under the conditions mentioned therein. Once the respondent No.3 at the time of voluntary retirement withdrew all the provident fund dues he became an excluded employee. But the moment he was re-employed, he again became an employuee within the meaning of the Act and the provisions of the Act will apply afresh to such an employee.

2001 (2) KLT SN 80 P 64 Harissons Malayalam Ltd v/s Regional P.F. Commissioner

Order imposing damages cannot be set aside on the ground of delay Section14B - Order imposing damages cannot be set aside on the ground of delay in initiating proceedings under Sec.14B unless prejudice is pleaded or proved by employee.

The employer can claim prejudice if there is proof that between the period of default and the date of initiation of action under Sec.14-B he has altered his position to his detriment to such an extent that if the recovery is made after a large number of years, the prejudice to him is of an irretrievable nature, and such prejudice can also be established by stating reason of non-availability of records of the personnel by which evidence it could be established that there was some basis for delay in making the payments. However, no such prejudice was either pleaded or proved. Therefore, order imposing damages is not liable to be set aside.

2001 (2) KLJ NOC 43 SC DB K.Streetlite Electric Corporation v/s Regional P.F. Commissioner

Exemption can be granted by the appropriate Government only to any establishment or class of establishment and not to any employee or group of employees Employees Provident Fund and Miscellaneous Provisions Act, 1952, Section 2A - Exemption can be granted by the appropriate Government only to any establishment or class of establishment and not to any employee or group of employees - A group of reemployed ex-service men in a particular industrial establishment cannot be termed as part of that establishment--See--Employees Pension Scheme, 1995, Clause 39.

2001 (2) KLT 41 H.M.T. Ex-service Men's Association v/s Union of India

Delay in payment of Provident Fund to employee is a deficiency in service of the Commissioner Employees Provident Fund and Miscellaneous Provisions Act, 1952, Section 5 – Delay in payment of Provident Fund to employee –

Commissioner liable for deficiency in service – Consumer Protection Act, S.2(1)(d) & (O).

2000 (1) KLT SN 46 P 42 DB

Sufficient reasons for belated payment is not a ground to grant exemption from paying penalty Employees Provident Fund and Miscellaneous Provisions Act, 1952, Section 14 B – Exemption – Sufficient reasons for the employer to make belated payment, it is not a ground to grant exemption from paying penalty.

2000 (1) KLJ 132 Ernakulam District Co-operative Bank v/s Regional Provident Fund Commissioner

Loss is sought to be recovered from the defaulter for indemnifying the beneficiaries Employees Provident Fund and Miscellaneous Provisions Act, 1952, Sections 14B and 6 – Any loss caused due to the delay in paying the dues such as interest, is the amount that can be recovered from the defaulter – The defaulter is not liable to pay anything more as penalty is not permitted under S.14B.

Merely, because of the amount had been paid earlier to the order under S.14B, it cannot be contended that there was no default in payment on the due date if the amount was paid only subsequent to the due date. Any delay in paying the amount under S.6 causes loss to the beneficiaries of the Scheme: such as loss of interest and the like. This is the loss that is sought to be recovered from the defaulter for the purpose of indemnifying the beneficiaries of the Scheme- namely, the employees-to the extent of the loss suffered. The defaulter under S.14B is, therefore, liable to pay damages which represent the loss; but not anything more, as such recovery would amount to penalty, and that is not permitted under Section. *In this judgment* **1977 LLJ 379** *is followed.*

2000 (1) KLT SN 28 P 26 Ernakulam Co-operative Bank Ltd v/s Regional Provident Fund Commissioner

Entitlement of a widow to receive family pension Employees Provident Funds and Miscellaneous Provisions Act, 1952 - The entitlement of a widow to receive family pension under the Army Pension Regulations will not stand in the way of her receiving any other benefit under the Family Pension Scheme introduced under the Employees provident Funds & Miscellaneous Provisions Act-Army Pension Regulations-Doctrine of Estoppel-See-Constitution of India. Art. 226

1998 (2) KLT 797 DB Union of India v/s Visalakshy

Effect of Section 11 Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 11 - Does not impliedly repeal Section 29 or 46 B State Financial Corporations Act, 1951.

ILR 1995 (1) Ker 319 = 1994 (2) KLT 202 Kerala Financial Corporation v/s Recovery Officer and another

Amount of provident fund contribution shall be paid in priority to all other debts Employees Provident Fund and Miscellaneous Provisions Act, Section

11 (2) - Section 11 (2) of the Act declares that the amount of provident fund contribution shall be paid in priority to all other debts. These words do not mean that charge may be enforced against the property held by a transferee for consideration without notice. The legislature was aware of the provision of Sections 29 and 46-B of the Act which invested the Corporation with the right to sell the mortgaged or hypothecated property. If it intended to make the charge enforceable against the property held by the Corporation, it would have so provided by express words. The words "shall be paid in priority to all other debts" employed in Section 11(2) of the Provident Fund Act does not constitute an express provision that the charge may be enforced against the property held by transferee for consideration without notice of the charge.*In this jugment* **AIR 1971 SC 1201 Ahmadabad Municipality v/s Haji Abdul Gafur Haji Hussenbhai** *is referred to.*

ILR 1995 (1) Ker 319 =1994 (2) KLT 202 Kerala Financial Corporation v/s Recovery Officer and another

Matters to be considered by the authority before imposing penalty under the Act Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 143 B - Matters to be considered by the authority before imposing penalty under the Act. Authority to consider whether employer chronic defaulter, nature and frequency default, period of delay and amount involved etc, before imposition. *In this jugment* **1992 (2) KLT 95 Cannanore Shop v/s Regional Provident Fund Commissioner** *is referred to.*

ILR 1994 (3) Ker 83 The Common Wealth Trust (India) Limited v/s Regional Provident Fund Commissioner

Whether two or more establishments are in reality one Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Tests to be applied to find whether two or more establishments are in reality one establishment for the purposes of the Act depends on facts of each case. Broad tests are unity of ownership, management and control, functional integrity, general unity and unity of employment to constitute one integrated whole. The mere fact that the partners belong to the same family may be a reason for close scrutiny of the claim that the two units constitute separate establishments but by itself it does not unite the two establishments. *In this jugment* **1975 KLT 426 New Street Textiles v/s Union of India, 1975 KLT 484 Varghese and others v/s Provident Fund Inspector, AIR 1960 SC 56 Associated Cements Companies Ltd, Chaibasa Cement Works, Jhinkapani v/s Their Workmen** *and* **ILR 1974 (1) Ker 11 K. Ramunni v/s The Regional Provident Fund Commissioner and another** *are referred to.*

ILR 1994 (3) Ker 10 = 1994 (2) LLJ 646 Evans Food Corporation v/s Union of India and others

Epf Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 1 (3) (b) - Petitioner - Manufacturing firm and the sole distributor- Firm

functioning in the same premises - No common partners – No common employees – Firms are not under one 'employer' not liable for contribution – Test to be applied
ILR 1994 (1) Ker SN 41 Evans Food Corporation v/s Union of India and another

For the purpose of determining the liability, the main establishment as also its branches has to be taken as one unit Employees Provident Fund and Miscellaneous Provisions Act, Sections 2A and 1 (3) (a) - Under Section 2A of the Act, if an establishment consists of differents or has branches, they shall be treated as part of the same establishment so that for the purpose of determining the liability, the main establishment as also its branches has to be taken as one unit. In the instant case, the balance sheet, profit and loss account, income and expenditure account are all common for all the units of the Company. The same Managing Director, Finance Manager and Secretary are the persons empowered to operate the bank accounts of both the factories. There is, thus financial and functional dependency between the two units and there is unity of ownership, management, supervision, control and general unity of purpose.
1993 (2) KLT 573 DB Eddy Current Controls (India) Limited v/s Regional Provident Fund Commissioner

Partition of the establishment Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 1 (5) - On account of partition, if the establishment became disputed, one of the allottees under partition alone cannot be called upon to pay the minimum administration charges under the Act. *In this jugment* **1974 KLT 708 FB Zainulabdeen v/s Regional PF Commissioner** *is relied on.*
ILR 1993 (3) Ker 200 = 1993 (1) KLT 305 Annamma Iype v/s Regional Provident Fund Commissioner Trivandrum

The authority has to apply its mind to the facts and circumstances of the case Employees Provident Fund and Miscellaneous Provisions Act, Section 14B - Under Section 14B of the Act, penalty can be imposed for irregular payments and defaults. The authority has to consider whether the employer is in the habit of making payment regularly, nature, number and frequency of the defaults, the period of the delay involved, amounts involved and all other considerations have to be taken into account. The authority has to apply its mind to the facts and circumstances of the case.
1992 (2) KLT 95 Cannore Shop v/s Regional PF Commissioner

Affected parties should be given an opportunity of being heard Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Scope and nature of the Power – Affected parties should be given an opportunity of being heard. *In this jugment* **1983 KLT 1071 Mammoo and Brothers v/s Government of India 1988 (1) KLT 843 Patel Vensers (P) Ltd v/s Regional PF Commissioner** *and* **Glamour v/s Regional P.F. Commissioner** *are relied on and* **Poly Clinic, Nagarcoil v/s Regional Commissioner** *is followed.*
ILR 1991 (3) Ker 883 M/s Parthas Textiles v/s Union of India and others

Hospital is genus of which clinic and dispensary are only species, purpose of all being treatment of sick Employees Provident Fund and Miscellaneous Provisions Act, Section 1 (3) (b) - Hospital is genus of which clinic and dispensary are only species, purpose of all being treatment of sick. Hospital to receive liberal interpretation to include medical establishments where treatment is given primary object being benefit to employees. Absence of inpatient facility will not deprive institution status of hospital. Immaterial who owns, controls or manages them, business transacted and activities there only material.

1988 (2) KLT 41 = 1988 (2) ILR 601 = 1989 (2) ILJ 562 Employees Provident Fund Inspector v/s The Polyclinic (p) Ltd

Medical Clinics employing more than 20 persons comes within the definition of hospital Employees Provident Fund and Miscellaneous Provisions Act, Section 1 (3) (b) - Medical Clinics employing more than 20 persons comes within the definition of hospital and are covered by the notification of 1973. Irrespective of the nature of the business, the number of employees are the consideration. Giving social security to the employees in private concerns and enterprises is the object, whatever those concerns and enterprises is the object, whatecer those concerns and enterprises are doing. The schedule and the Notifications issued so far show that almost all classes of establishments dealing with variely of business are brought within the purview of the Act, thereby indicating that the provisions are not intended to exonerate any venture on the ground of nature of business transacted. It is a beneficent piece of social welfare legislation aimed at promotion and securing the well being of the employees. The courts will not adopt a narrow interpretation which will have the effect of defeating the very object and purpose of the Act. *In this jugment* **1985 (4) SCC 509 Andhra University v/s R.P.F. Commissioner of A.P, 1984 Supp SCC 610 Sayaji Mills Ltd v/s Regional P.F. Commissioner, AIR 1986 SC 338 Scientific Engineering House (P) Ltd v/s I.T. Commissioner** *and* **1986 KLT 954 K.B. Jacob v/s Regional Commissioner** *are referred to.*

1988 (2) ILR 601 = 1988 (2) KLT 41 = 1989 (2) KLJ 562 The Employees Provident Fund Inspector v/s The Poly Clinic (p) Ltd

A new business has infancy protection envisaged by Section 16 of the Act Employees Provident Fund and Miscellaneous Provisions Act, Section 16 (1) (b) - The present owner purchased the building alone and starting a new hotel in the same name. The hotel is a new establishment entitled to exemption. Business was closed down on 28t July 1980, the sale deed in favour of the petitioner was only on 29th April 1981. The petitioner started business only on 4th November 1981. What was sold was the landed property and building. None of the former employees were taken in by the petitioner. It is clear that the petitioner set up the business only on 4th November 1981 and that it was not a continuation of the old business. There was no link between the petitioner's business and the business run by the earlier owners of the building.

Accordingly the petitioner is entitled to infancy protection envisaged by Section 16 of the Act.*In this jugment* **1973 Lab IC 135 United Hotellers Calicut v/s Government of India, AIR 1965 Mad 462 Devi Press v/s R.P.F. Commissioner, AIR 1971 SC 82 = 1970 (2) SCR 481 Provident Fund Inspector Trivandrum v/s Secretary N.S.S. Co-operative Society, 1986 Lab IC 630 M/s Conveyos Equipment Co. (P) Ltd v/s Union of India** *and* **AIR 1985 SC 323 = 1985 (1) LLJ 238 Sayaji Mills Ltd v/s Regional P.F. Commissioner** *are referred to.*

ILR 1988 (2) Ker 396 Sealord Hotel (P) Ltd v/s The Regional Provident Fund Commissioner

Employer's Liability to contribute provident fund applies from the date of notification Employees Provident Fund and Miscellaneous Provisions Act, Sections 6 and 8 - Employer's Liability to contribute provident fund applies from the date of notification and not from the point of time competent authority to hold employer liable and determine amount payable by him.

1987 (1) KLT 163 = 1987 (2) ILR 177 Mohan Raj v/s Regional Provident Fund Commissioner

If contribution is collected from employees the same should be credited to the fund Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Sections 15 and 16 - During the infancy stage if contribution is collected from employees the same should be credited to the fund.

ILR 1984 (1) Ker 498 = 1984 KLT 11 North Malabar Gramin Bank v/s The Regional Provident Fund Commissioner

Employer - definition of Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Sections 2 (e) and 14 A - "Employer"- Definition of – Every person who at the time of the offence was in charge or was responsible for the conduct of the business of the company shall be deemed to be liable.

ILR 1983 (2) Ker 1= 1983 KLT 687 The Employees Provident Fund Inspector, Kozhikode v/s M/s South Indian Saw Mills (P) Ltd and others

Trainees in an establishment are not employees Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 2 - Employee – Trainees in an establishment are not employees. *In this jugment* **AIR 1976 SC 66 E.S.I. Corporation v/s Tata Engineering and Co.** *and* **1975 KLT 670 President K.P. Co-operative Society v/s E.S.I. Corporation** *are relied on.*

ILR 1983 (2) Ker 445 = 1983 KLJ 249 = 1983 KLT 647 = 1983 KLN 193 DB Regional Provident Fund Commissioner v/s Lord Krishna Bank Ltd and others

Decision of Government of India on entitlement to infancy protection is not liable to challenge Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 19 A - Decision of Government of India on a reference whether the firm is entitled to infancy protection is not liable to challenge unless it is shown to be manifestly perverse or vitiated by any illegality of approach or an omission to advert to

any material facts or circumstances. *In this jugment* **ILR 1980 (2) Ker 738 Padmasree Enterprises v/s Regional Provident Fund Commissioner** *is relied on.*
ILR 1981 (1) Ker 293 = 1980 KLT SN 47 DB The Regional Provident Fund Commissioner and another v/s C.K.M. Saw Mills

Whether an establishment is continuation of an old establishment Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 16 (1) (b) - Principles applicable for deciding whether an establishment is continuation of an old establishment or an entirely new one to which the exemption can be made applicable. *In this jugment* **1965 (2) LLJ 654 Shanmugham Chetttiar v/s Regional Provident Fund Commissioner, 1969 (2) LLJ 693 Provident Fund Inspector v/s N.S.S. Co-operative Society, AIR 1971 SC 82, 1969 (2) LLJ 682 Ramakrishna Rao v/s State of Kerala, 1969 (2) LLJ 145 R.P.F. Commissioner v/s Vittaldas Jugannathadas, 1971 (1) LLJ 44 S.V. Palanimalali v/s Regional Provident Fund Commissioner, AIR 1970 SC 655 State of Punjab v/s Satpal, AIR 1957 Cal 702 Messers Bharat Board Mills v/s Regional Provident Fund Commissioner** *and* **AIR 1959 Cal 783 Vegetable Products Ltd v/s Regional Provident Fund Commissioner** *are relied on.*
ILR 1980 (2) Kerala 738 DB Padmasree Enterprises v/s Regional Provident Fund Commissioner and another

On failure to remit the contribution in time damages can be recovered from the employer Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 14 B - On failure to remit the contribution in time damages can be recovered from the employer. *In this jugment* **1958 (1) LLJ 598 R.B.H.N. Jute Mills v/s Provident Fund Commissioner, 1969 (11) LLJ 136 M.B.T. Co. v/s Regional Provident Fund Commissioner, 1970 (1) LLJ 619 Popular Transport v/s Regional Provident Fund Commissioner, 1966 (11) LLJ 804 Bharat Barrel and Drum Manufacturing Co. Ltd v/s Raval** *and* **AIR 1976 SC 676 Coal Mines Provident Fund Commissioner v/s I.P. Lalla** *are relied on and* **1978 (1) LLJ 101 S.I. Flour Mills v/s Regional Provident Fund Commissioner** *is dissented from.*
ILR 1979 (2) Ker 479 = 1979 KLT 655 DB Regional Provident Fund Commissioner v/s Bharath Plywoods and Timber Products (Pvt.) Ltd

Applicability of the Act Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 1 (3) read with Section 2 (f) and Section 16 - Applicability of the Act to establishments. *In this jugment* **AIR 1971 SC 1519 P.F. Inspector v/s T.S. Hariharan** *is relied on.*
ILR 1975 (1) Ker 680 = 1975 KLT 484 Varghese and others v/s The Provident Fund Inspector

Department and Branches – meaning of Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 2 A - Interpretation of – Department and Branches – meaning of. *In this jugment* **1960 (1) LLJ 1 Associated Cement**

Companies Ltd v/s Their Workmen *is relied on.*

ILR 1974 (1) Ker 11 DB K. Ramunni v/s The Regional Provident Fund Commissioner and another

Industries manufacturing alath rope Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Schedule 1 – Entry 11 "Coir (excluding the Spinning sector) Industry" :- Industries manufacturing "alath rope" will come within the entry. *In this jugment* **AIR 1965 SC 1076 The Provident Funds Commissioner, Punjab v/s Shibu Metal Works, AIR 1964 Mad 371 M/s East India Industries (Madras) Private Ltd v/s Regional Provident Fund Commissioner Madras** *and* **AIR 1958 Pat 314 Bankim Chandra Chakravarthy v/s Regional Provident Fund Commissioner** *are relied on and* **AIR 1967 Bom 259 Kamlakar Shanker Warde v/s Central Board of Trustees** *is dissented from.*

ILR 1972 (1) Ker 18 = 1972 KLJ 127 DB Kerala Coir Works, Pannyankara Calicut v/s The Regional Provident Fund Commissioner Kerala and another

Date of Liability for making contributions Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 1 (3) as amended in December, 1960 by Act XLVI of 1960 - Establishment started on 25th January, 1957 and employing more than twenty but less than fifty persons a day since May 1960 - Liability for making contributions for 3rd File June, July and August 1960.

ILR 1965 (1) Ker 353 = 1965 KLJ 103 = 1965 KLT 507 DB Provident Fund Inspector, Quilon v/s Kerala Jantha Printers and Publishers (P) Ltd Trivandrum and another

Newspaper establishments Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Sections 1 (3), 4 and Schedule 1 - Scope of – Act made applicable to newspaper establishments by Section 15 of the working Journalists (Conditions of service) and miscellaneous Provisions Act (XLV of 1955) Propriety of.

ILR 1965 (1) Ker 353 = 1965 KLJ 103 = 1965 KLT 507 DB Provident Fund Inspector, Quilon v/s Kerala Janatha Printers and Publishers (P) Ltd Trivandrum and another

Starting point for the period Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 16 (1) - Starting point for the period of three years or five years under the section is the date on which the establishment was set up. *In this jugment* **1958 (1) LLJ 285 Bharat Board Mills v/s Regional Provident Funds Commissioner** *and* **1964 (1) LLJ 169 Shani & Co. v/s Union of India** *are relied on.*

ILR 1965 (1) Ker 337 = 1965 KLJ 167 = 1965 KLT 136 DB Ramakrishna Rao v/s Provident Fund Inspector, Trichur

Ascertainment of number of workers in factory Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 19 A - Ascertainment of number of workers in factory – If Provident Fund Commissioner finds no difficulty,

reference to Central Government under Section 19 A not obligatory. *In this jugment* **AIR 1964 Mad 371 Messers Ease India Industries Private Ltd v/s Regional Provident Fund Commissioner** *and* **1963 KLJ 1121 Provident Fund Inspector, Ernakulam v/s The Auto Transport Union (P) Ltd** *are relied on and* **1963 KLT 885 Dhanalakshmi Weaving Works v/s The Regional Provident Funds Commissioner, Trivandrum** *and* **AIR 1955 Mad 387 Anamalai Muddaliar Bros v/s Regional Provident Fund Commissioner** *are dissented from.*

ILR 1965 (1) Ker 337 = 1965 KLJ 167 = 1965 KLT 136 DB Ramakrishna Rao v/s Provident Fund Inspector, Trichur

Establishment of exporters and importers Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section (1) (3) (b) -Notification No. G.S.R. 346 dated 7th March, 1962 issued under-"Establishment of exporters and importers" –Establishment of a stevedore is not an establishment of an exporter and importer.

ILR 1965 (1) Ker 325 = 1965 KLJ 64 = 1965 KLT 46 DB The Provident Fund Inspector, Ernakulam v/s Paul Abrao

Section 19 A - Scope and ambit of Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 19 A - Scope and ambit of. *In this jugment* **1952 (2) MLJ 857 In re Sankaranarayana, 1960 (1) LLJ 794 Joseph Sam v/s Coltex (India) Ltd** *and* **1957 (2) LLJ 272 Joseph Sam v/s Coltex (India) Ltd** *are relied on.*

ILR 1964 (1) Ker 246 = 1964 KLT 42 DB Provident Fund Inspector v/s Auto Transport Union and others

Both Fund authorities and employers can invoke jurisdiction of Central Government Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 19 A - Scope of – Doubts as to matters Referred to in Clauses (i) to (v) of Section 19 A. Both Fund authorities and employers can invoke jurisdiction of Central Government under Section 19 A for adjudication. *In this jugment* **AIR 1955 Mad 387 Annamalai Mudaliar Bros v/s Regional Provident Fund Commissioner** *is relied on and* **AIR 1958 Pat 314 Bankin Chandra v/s Commissioner R.P.Fund** *is discussed and disagreed with.*

ILR 1963 (1) Ker 261 = AIR 1963 Ker 219 = 1963 KLJ 885 Dhanlekshmi Weaving Works v/s The Regional Provident Fund Commissioner

When once there is reduction in the number of persons employed, the Act will also cease to apply Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 1 (3) - Act originally applied to establishment – Subsequent reduction in the number of employees to less than fifty. When once there is reduction in the number of persons employed, the Act will also cease to apply. *In this jugment* **AIR 1958 Pun 386 Golden Silk Mills v/s Central P.F. Commissioner, AIR 1960 Mys 14 Subbaramma Chetty v/s Zewar Ali** *and* **1961 (1) LLJ 671 State v/s Jagraj** *are relied on and* **AIR 1957 Bom 209 State v/s Hathiwala**

Textile Mills *is not followed.*

ILR 1962 (2) Ker 277 = 1962 (2) KLR 260 DB Joseph v/s The Regional Provident Fund Commissioner

Applicability of Act Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Applicability – Factors to be considered.

ILR 1960 Ker 1222 FB C.J. Iyyappan v/s The Regional Provident Fund Commissioner

If the Appellant had been prejudiced by the proceedings which he himself had started he has only to thank himself Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Employer securing injunction from court restraining collection of contributions to the fund. Subsequent closure of the factory and disbanding of workers. If the Appellant had been prejudiced by the proceedings which he himself had started he has only to thank himself. If under the Act the appellant was bound to make his contributions to the Fund, this court can only declare so in a proceeding under Article 226 of the constitution and leave the consequences to shape themselves according to law. *In this jugment* **AIR 1958 All 474 N.K. Industries Private Ltd v/s Commissioner of R.P. Fund** *is relied on.*

ILR 1960 Ker 1222 FB C.J. Iyyappan v/s The Regional Provident Fund Commissioner

The word 'factory' in Section 1 (3) means the whole of the premises Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 1 (3) - Industry included in the Schedule 1, and industry not so included carried on in the same factory – Number of employees necessary to attract application of the Act. The word 'factory' in Section 1 (3) of the Employees Provident Funds Act means the whole of the premises in any part of which a scheduled industry is carried on and not the particular unit thereof which is actually engaged in such industry. The expression "in which fifty or more persons are employed" in Section 1 (3) of the Employees Provident Fund Act, even as it stood originally before its Amendment in 1956, relates to "Factories" and not to "industry" mentioned in the said section. *In this jugment* **AIR 1958 All 474 N.K. Industries Private Ltd v/s Commissioner of R.P. Fund, AIR 1959 All 133 R.P.F. Commissioner v/s Great Eastern Electroplater Ltd, AIR 1959 Bom 152 Madras Pencil Factory v/s R.P.F. Commissioner** *and* **AIR 1957 Bom 149 Oudh Sugar Mills Ltd v/s R.P.F. Commissioner** *are disagreed with.*

ILR 1960 Ker 1222 FB C.J. Iyappan v/s The Regional Provident Fund Commissioner

Applicability of Act Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 1 (3) - " The Factories engaged in an industry specified in Schedule 1"- meaning of –For applicability of Act not necessary that the primary business in the factory is a scheduled industry. *In this jugment* **AIR 1957 Bom 149 Tambe Jin Oudh Sugar Mills v/s R.P.F. Commissioner** *is approved*

and **AIR 1959 Mad 234 Mudholkar Jin Oudh Sugar Mills v/s R.P.F. Commissioner** *is disagreed with.*

ILR 1960 Ker 1222 FB C.J. Iyyappan v/s The Regional Provident Fund Commissioner

PROVIDENT FUND UNDER KERALA CO-OPERATIVE SOCIETIES ACT

In public interest, there will be a direction to the Government to notify the Pension Scheme as applicable to all the Societies registered under the provisions of the Kerala Co-operative Societies Act, 1969, except where there is scheme under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 Section 61 – Direction issued to the Government to notify the Pension Scheme as applicable to all the Societies registered under the provisions of the Co-operative Societies Act, 1969, except where there is scheme under the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

Being a welfare legislation for the employees, the Pension Scheme should be made compulsory. It is significant to note that as far as the provident fund under S.61 is concerned, it was mandatory for every society to establish a contributory provident fund. Therefore, in public interest, there will be a direction to the Government to notify the Pension Scheme as applicable to all the Societies registered under the provisions of the Kerala Co-operative Societies Act. 1969, except where there is scheme under the Employees Provident Fund and Miscellaneous Provisions Act, 1952. A notification shall be issued within a period of two months from today. The Original Petitions are disposed of as above. A copy of this judgment will be immediately forwarded to the Secretary to Government, Co-operation Department, Trivandrum and also to the Registrar of Co-operative Societies, Trivandrum.

2003 (1) KLT 250 Kodukulanji Service Co-operative Bank v/s State of Kerala

Regional Provident Fund commissioner has no power to take proceedings against any Co-operative society Regional Provident Fund commissioner has no power to take proceedings under the Central Act against any Co-operative society governed by the State Act.

1973 AWR 487 Zila Sahakari Federation Ltd v/s RPF Commissioner

ACT

S62. Gratuity :- The employees of a society shall be entitled to gratuity at such rates and on such conditions as prescribed.

RULES

R59. Gratuity:- Every society shall make in its bye-laws provision for payment of gratuity to its employees and frame regulations for its administration. Among

other matters such regulations shall provide for the following-

(i) all monthly paid employees on the permanent establishment shall be eligible for gratuity;

(ii) service rendered by employees must be continuous and satisfactory;

(iii) when an employee who has put in at least 5 years satisfactory service is retired voluntarily from service or if he is permanently disabled while in service or if he dies while in service the society shall pay to him or to his legal heirs as the case may be a gratuity not exceeding half months pay for every completed year of service:

Provided that in no case shall the gratuity exceed fifteen months pay.

CASE LAWS

The case laws under this head are subclassified as follows.

1. Gratuity under Central Act
2. Gratuity under State Act
3. Gratuity under Co-operative Societies Act
4. Gratuity general

GRATUITY UNDER CENTRAL ACT

Interest on delayed payment of gratuity is mandatory Payment of Gratuity Act, 1972 - S.7(3A) Proviso., S.8 – Interest on delayed payment of gratuity is mandatory – Not discretionary if delay is not due to fault of the employee. *In this judgment* **1995 (50) FLR 145 State of Kerala v/s M. Padmanabhan Nayyar** *and* **1988 (57) FLR 543 SC Charan Singh v/s M/s Birla Textiles** *are referred to.*
2003 (3) SCC 40 = AIR 2003 SC 1526 = JT 2003 (1) SC 644 DB H. Gangahanume Gowda v/s Karnataka Agro Industries Corporation Ltd

Condition precedent for admitting an appeal Gratuity – Whether the deposit of the entire amount directed to be paid under Section 7 (4) (c) was a condition precedent for admitting an appeal under Section 7 (7) – See – Payment of Gratuity Act, 1972 – Section 7 (4) (c).
2004 (2) KLT 519 = ILR 2004 (2) Ker 544 Standard Stonewares and Tiles v/s Appellate Authority

An employee will get gratuity which is more favourable to him Section 14, 16 - If gratuity is not payable under the Working Journalists Act (Kerala) - Gratuity is payable under the Act - An employee will get gratuity which is more favourable to him.

A view is possible that gratuity can be calculated under the Working Journalists Act and under the Payment of Gratuity Act and an employee will get the gratuity which is more favourable to him. If gratuity is not payable under the Working Journalist Act like a case of this kind, gratuity is payable under the Gratuity Act and such an interpretation makes both the Act workable with the regard to the question of payment, of gratuity.

In this judgment **1961 (1) LLJ 339, AIR 1977 SC 265, AIR 1992 SC 81** *and* **1984 (1) LLJ 368** *are relied on,* **1998 (1) LLJ 204** *and* **1961 (1) LLJ 328 SC P 381** *are referred to and* **1998 (2) LLJ 916** *and* **1998 (2) LLJ 705** *are dissented from.*

ILR 2002 (3) Ker 300 Rajan P v/s Union of India and another

Forfeiture of the gratuity to the extent of the damage or loss caused Payment of Gratuity Act - Section 4 – Forfeiture of the gratuity to the extent of the damage or loss caused can be done only if the services of an employee have been terminated for any act, willful omission or negligence.

The stand of learned counsel for the Corporation is that misconduct was of such magnitude for termination of services could have been directed, but taking note of the fact that only few days were left for his superannuation, such a course was not adopted and for taking a sympathetic view the Corporation may not suffer. Though it is possible that an order of termination could have been passed as contended by learned counsel for the Corporation, on an hypothetical basis, yet in reality no order of termination was passed. That being the position, Sub-s (6) of S.4 of the Act does not come to the aid of the Corporation. *In this judgment* **AIR 1965 SC 839** *and* **AIR 1983 SC 130** *are referred to.*

2000 (3) KLT 107 DB Mathew v/s Plantation Corporation of Kerala Ltd

Refusal to pay gratuity to be viewed as an impropriety Payment of Gratuity Act, 1972 - Section 4 (6) - Criminal Proceedings against officer of the corporation resulting in acquittal - Service not terminated - Refusal to pay gratuity to be viewed as an impropriety.

A more deterrent prescription that even though there was no monetary loss, an employer, nevertheless could deny the whole of gratuity payable is also seen incorporated in the statute. Invocation of this clause was of course on the existence of two prior conditions, viz., that there should have been an allegation of an offence involving moral turpitude, and also that the services were terminated on that score. The facts of this case show that these had not preceded. Admittedly, the petitioner was permitted to go on retirement. It was not a case of termination of service. The final decision ended in an acquittal. There was no charge sheet or independent enquiry or finding at domestic level. The refusal to pay gratuity has therefore to be viewed as an impropriety.

2002 (2) KLT SN 38 Balakrishnan v/s Kerala Small Industries Development Corporation

Entitlement to share in family pension and gratuity Payment of Gratuity Act - Section 4 – Children born to deceased Hindu employee from second wife taken during subsistence of first marriage are entitled to share in family pension and gratuity – Family Pension and death cum retirement gratuity – See – Constitution of India, Art.16.

2000 (2) KLT SN 33 P 29 SC DB Rameshwari Devi v/s State of Bihar

Right to receive gratuity is a vested right and cannot be destroyed by amending standing orders retrospectively Payment of Gratuity Act - Section 4 (3)

– Standing orders amended with retrospective effect so as to take away the rights already accrued to the employees, irrespective of ceiling limit – Right to receive gratuity is a vested right and cannot be destroyed by amending standing orders retrospectively.

In view of this provision the right of the employee to receive better terms of gratuity under the Standing Orders is well preserved. What is now pleaded by the learned counsel appearing for the appellant is that Ext.P1 Standing Orders had been amended with retrospective effect so as to take away the rights already accrued to the employees irrespective of the ceiling limit. The right to receive the gratuity by an employee on retirement is a vested right and it cannot be destroyed by amending the Standing Orders retrospectively. As earlier said the respondents have retired from service in the year 1996 and 1997 and the right to receive the gratuity by them on retirement is well protected. *In this judgment* **1997 (6) SCC 623** *is relied on and* **1997 (7) SCC 24** *is distinguished.*

1999 (2) KLT 845 = 1999 (2) KLJ 230 = ILR 1999 (3) Ker 151 DB Kerala Electrical A.E. Co. Ltd v/s Raveendran Pillai

Continuous Service meaning of Payment of Gratuity Act - Sections 2 (c) and 2A – 'Continuous Service' meaning of – Continuous service means uninterrupted service and as such the Sundays, national holidays and weekly off days are to be taken into consideration to determine whether an employee has actually worked or not under an employer for 240 days in a year.

The requirement of law that in computing continuous service, the number of days on which there was cessation of work not due to any fault of the employee should be taken as if on those days also there was no uninterrupted service is also reasonable and within the parameter of Art.19(1)(g) of the Constitution of India as there was cessation of work by the employee not due to his fault, but on account of other extraneous circumstances which are beyond his control. Hence, the cessation of work on those days is not due to any fault of the employee concerned and cannot be attributed to the employee and hence in calculating 240 days, those days should not be excluded, but it was rightly held to be included in the impugned order. *In this judgment* **1980 (2) LLN 417** *and* **1985 (2) LLN 817** *are referred to.*

1999 (2) KLT SN 57 P 52 Sri Akhilandeswari Mills Ltd v/s Assistant Commissioner of Labour

Government Order providing for one month's wages as gratuity for every completed year is not the gratuity payable under the Act Payment of Gratuity Act, 1972, Section 4 - Government Order providing for one month's wages as gratuity for every completed year - Is not the gratuity payable under the Act - Gratuity payable under the Act is limited to 15 days wages for every completed year.

A reading of the entire provisions of S.4 makes it clear that gratuity payable under the Act is limited 15 days wages for every completed year and an employee can claim gratuity from the employer if he is entitled for better terms in accordance with

any other better provisions of conditions of service. S.7 of the Act enables an employee to approach the controlling authority for determination of the amount towards gratuity. S.7 can be invoked only by 'a person who is eligible for payment of gratuity under this Act'.

1998 (2) KLT 399 Ayyappan v/s Joint Labour Commissioner

GRATUITY UNDER STATE ACT

Kerala Act passed earlier is not enforceable Industrial Employees Payment of Gratuity Act, 1970 (Kerala) – Service Law – Central Act and State Act – Whether the Kerala Industrial Employees Payment of Gratuity Act, 1970 is applicable after the enactment of payment of Gratuity Act, 1972 – Held, Kerala Act passed earlier is not enforceable.

The Central Act was enacted to ensure uniform pattern on gratuity and since provisions of Kerala and West Bengal Acts were not protected, the Central Act which is a subsequent Act will prevail. Therefore, after enactment of Payment of Gratuity Act (Central Act), Kerala Act passed earlier was not enforceable and superseded. Under the Kerala Act a person is not an employee if his monthly wages exceeds Rs. 750/-. Admittedly, second respondent was getting more than Rs.750/- at the time of his retrenchment. Therefore, he is not an employee as defined under the Kerala Act also. Therefore, even under the Kerala Act he is not entitled to gratuity. *In this judgment* **1975 KLT 867 FB, AIR 1954 SC 92, AIR 1969 SC 530** *and* **AIR 1973 SC 1227** *are referred to and* **1989 (1) KLT 729** *is distinguished.*

2003 (3) KLT 931 DB Southern Clock Industries v/s Regional Joint Labour Commissioner

Treating the monthly wages as wages for 26 working days is proper Industrial Employees Payment of Gratuity Act, 1970 (Kerala)-Mode of calculating gratuity - Treating the monthly wages as wages for 26 working days is proper - See - Payment of Gratuity Act, 1972, S.4(2).

2001 (1) KLT 147 = 2001 (1) KLJ 128 = ILR 2001 (2) Ker 55 DB Chathu v/s Disstrict Labour Officer

Time limit for submitting application for gratuity is not mandatory Industrial Employees Payment of Gratuity Act, 1970 - Section 7 (1) - Time limit for submitting application for gratuity is not mandatory. Delay in submitting the application due to pendency of Industrial Dispute and other legal proceedings between the employer and employee cannot entail forfeiture of claim for gratuity. *In this judgment* **1981 (4) SCC 600 Motor Owner's Insurance Co. Ltd v/s Jadavji Keshavji Modi and others** *is relied on.*

ILR 1982 (1) Ker 542 = 1982 KLN 162 = 1982 KLT 148 The Tirurangadi Service Co-operative Society Bank Ltd v/s The District Labour Officer and others

Medical representative is not an employee Industrial Employees Payment of Gratuity Act, 1970 - Section 2 (d) - Medical representative is not an employee as defined in the Act. *In this judgment* **AIR 1971 SC 922 Burmah Shell Oil Storage and Distributing Company of India Ltd v/s The Burmah Shell Management Staff Association and others, AIR 1967 SC 678 May and Baker (India) v/s Their Workmen** *and* **1973 KLT 798 J & J De Chane Distributors v/s State of Kerala and others** *are relied on.*

ILR 1981 (1) Ker 467 = 1980 KLN 754 = 1981 KLT 192 DB M.G.. Menon v/s The Deputy Labour Commissioner

Dismissal for misconduct Industrial Employees Payment of Gratuity Act, 1970 - Section 4 (1) (b) - Whether the provision for payment of Gratuity to workmen even in cases of dismissals for misconduct is violative of Article 19 (1) (g) of the constitution. *In this judgment* **AIR 1957 SC 628 R.M.D. Chandrabagwall and another v/s Union of India, AIR 1962 SC 953 Kedar Nath Singh v/s State of Bihar, AIR 1963 SC 1638 Sri Govindalaji v/s State of Rajasthan, AIR 1964 SC 1230 R.L. Arora v/s State of U.P. and others** *and* **AIR 1972 SC 2027 The Malanakara Rubber and Produce Co. Ltd etc v/s The State of Kerala and ros etc** *are relied on.*

ILR 1975 (1) Ker 397 = 1975 KLT 867 FB Sunder and others v/s State of Kerala

Validity of the Act Industrial Employees Payment of Gratuity Act, 1970 - Its will be difficult to declare a statute such as the Act as violative of the guarantee under Article 19 (1) (g) of the constitution. The restrictions imposed are reasonable. *In this judgment* **AIR 1965 SC 839 Burhanpur Tapi Mills Ltd v/s Burhanpur Tapti Mills Mazdoor Sangh, AIR 1958 SC 578 Express Newspaper Ltd v/s Union of India, AIR 1962 SC 673 The Garment Cleaning Works Bombay v/s The Workmen, AIR 1969 SC 182 M/s Hydro (Engineers) Private Ltd v/s The Workmen, AIR 1970 SC 919 The Delhi Cloth and General Mills Co. Ltd etc v/s The Workmen and others etc, AIR 1960 SC 923 M/s Hathisingh Manufacturing Co. Ltd Ahmedabad and another v/s Union of India and another, AIR 1961 SC 418 Manohar Lal v/s The State of Punjab, AIR 1961 SC 1602 Jyoli Prasad v/s Union Territory of Delhi and others, AIR 1964 SC 925 Khyer bari Tea Co. Ltd and another v/s State of Assam and others, AIR 1974 SC 960 M/s Gammon India Ltd etc etc v/s Union of India and others, AIR 1966 SC 732 M/s British Paints (India) Ltd v/s Its Workmen** *and* **AIR 1967 SC 678 M/s May and Baker (India) Ltd v/s Their Workmen** *are relied on.*

ILR 1975 (1) Ker 397 = 1975 KLT 867 FB Sunder and others v/s State of Kerala

Superannuation according to contract of service Industrial Employees Payment of Gratuity Act, 1970 - Section 2 (1) - "Superannuation" Agreement be-

tween the workmen and employer fixing the age of superannuation at 58 years. The age of superannuation of the staff section of the workmen is governed by contract of service according to which it is 58 years.

ILR 1974 (2) Ker 381 Punalur Paper Mills Ltd v/s Their Workmen

GRATUITY UNDER CO-OPERATIVE SOCIETIES ACT

Controlling authority has no jurisdiction in adjudicating the dispute regarding the excess amount paid to the employee Payment of Gratuity Act, 1972 - S.4(3) – When the right to get the maximum amount of gratuity is not disputed the controlling authority has no jurisdiction in adjudicating the dispute regarding the excess amount paid to the employee – It has to be adjudicated by the Arbitrator.

The Co-operative Societies Act envisage a dispute between the employer and the former employee also to be decided by the arbitration. Hence Ext. P8 proceedings initiated by the Bank before the Arbitrator is in accordance with law and has to be proceeded with, In the present case, the controlling authority cannot have any jurisdiction in the matter, as the dispute relates to the claim regarding the excess amount paid which is beyond the purview of the Gratuity Act.

2003 (2) KLT SN 63 Thomas Kurian v/s Idukki District Co-operative Bank

GRATUITY GENERAL

Employees Group Gratuity Life Assurance Scheme Payment of Gratuity Act, 1972 - Section 4 (3) and (5) - Co-operative Societies Rules, 1969 (Kerala) - Rule 59 and Bye-laws - Gratuity payable to retired employees or legal heirs of deceased employees of Co-operative Societies cannot be restricted to the maximum prescribed under Section 4 (3) and Rule 59 of Co-operative Societies Rules and Bye-laws, in cases where the societies have entered into an arrangement with L.I.C. to have their liability for payment of gratuity to its employees insured as per "Employees Group Gratuity Life Assurance Scheme" as per which more amounts than the statutory maximum as per Section 4 (3) and Rule 59 are payable to the employees.

2005 (3) KLT 320 Retnavally v/s Ambalapadu Service Co-operative Bank Ltd

Option before an employee Payment of Gratuity Act, 1972 - Section 4 (5) and Industrial Disputes Act, 1947, Section 33-C(2) - Payment due under the Act as well as agreement or orders issued by the Government - Government order stipulating payment of 30 days wages for every completed year of service subject to a maximum limit of Rs 1 lakh - Act laying down 15 days wages for every completed year of service subject to a maximum amount of Rs 3.5 lakhs - Employee cannot claim benefit both under the agreement and the Act as well as Government Order - If any further amount is due under the agreement, the same has to be realised under Section 33-C(2) of the Act and not under the provisions of the Payment of Gratuity Act. *In this*

judgment **1998 (2) KLT 399** *and* **1986 (2) LLN 100** *are referred to.*

2005 (1) KLT 1 Sivaraman Nair v/s The Plantation Corporation of Kerala Ltd

Repayment of the loan amount can be recovered from Death-cum-Retirement Gratuity of surety Section 37 – Surety – Government servant standing as surety for loan transaction – Default in payment by principal debtor – Being a surety, the said Government servant has equal liability as the principal debtor for repayment of the loan amount – Held, it can be recovered from Death-cum- Retirement Gratuity of surety.

The provision in the Statute can only be understood as an enabling provision for recovery of the dues. A strict interpretation that salary paid from month to month alone could have been recovered, basically will be erroneous if not absurd.It will tend also to nullify the terms of the agreement entered into between the petitioner and the Bank. In view of the wordings of S.37, as referred to earlier, it need not be examined as to whether provisions of the Kerala Service Rules are offended. Of course the ruling below R.124 of Part III K.S.R. refers to a position that DCRG is not attachable by a Court of Law. But, the principles cannot be imported because of two reasons. The first is that there is no attachment by a Court of law in the present case. Secondly, in view of S.37, application of the rule itself will be out of place. As a matter of fact, in such cases, and adjudication as referred to in the Kerala Service Rules is not called for.

2003 (3) KLT 156 Surendran v/s Mavelikkare Primary Co-operative Agriculture and Rural Development Bank Ltd

Employees of the Bank not entitled to claim gratuity in excess of the statutory maximum limit Gratuity - Ceiling - Bank employees - Rules of the bank (SBI in this case) entitling its retired employees to gratuity subject to the maximum prescribed under Gratuity Act - In such circumstances, employees of the Bank, held, not entitled to claim gratuity in excess of the statutory maximum limit as in force on the date of their retirement.

2001 (6) SCC 106 DB Shitta Sharan Srivastava and others v/s Government of India and others

Properties of a company declared sick cannot be attached Gratuity - Order by Gratuity Authority to pay gratuity to workers - When an appeal is pending to declare the company as a sick concern before Appellate Authority, no direction can be issued in terms of Section 22-- Properties of company cannot be attached--See--Sick Industrial Companies (Special Provisions) Act, 1985, Section 22

2001 (3) KLT SN 3 P 2 = ILR 2001 (3) Ker 213 Chandrasekharan Nair v/s Punalur Paper Mills

Amount of gratuity cannot be withheld to recover damages for occupying the quarters Section 4 (6) - Amount of gratuity cannot be withheld on the ground that employee has to pay damages for occupying the quarters of the Bank.

Even under the Payment of Gratuity Act, the gratuity can be withheld only

under the circumstances mentioned in S.4(6) of the Act. It contemplates three circumstances mentioned in S.4(6) (a) and S.4(6)(b)(i). Under S.4(6)(a), if the act or wilful omission for which the service of the employee is terminated has caused damage or loss, then the gratuity shall be forfeited to the extent of the damage or loss so caused. The other circumstances are when the services of the employee have been terminated for his riotous or disorderly conduct and if the services of the employee have been terminated for any moral turpitude.

1998 (1) KLT SN 33 P 38 Rajendra Pai v/s Canara Bank

A beneficial provision can be invoked only by the employee and not by the employer S.4(5)-Sub-s. (5) of S.4 is a beneficial provision which can be invoked only by the employee and not by the employer.

The employer has no right to insist that the employe must accept the terns of gratuity under the agreement. It is for the employee to decide whether the terms of gratuity under the agreement is beneficial to him. If the agreement provides any better terms of gratuity in the opinion of the employee, he can opt to such agreement.

1997 (2) KLT 114 = ILR 1998 (1) Ker 533 Raveendrantha Prabhu v/s Rajappan

Government cannot stay the revenue recovery for gratuity dues S.28 - Government cannot stay the revenue recovery proceedings initiated to recover amounts due under orders of authorities under the Payment of Gratuity Act or Payment of Gratuity Act, 1972, S.28 - See - Revenue Recovery Act, 1968 (Kerala), S.83.

1996 (1) KLT 689 = 1996 (1) KLJ 806 = ILR 1997 (2) Ker 86 Muraleedharan v/s District Collector

Employer cannot withhold gratuity Section 4 (6) and 13 - Employer cannot withhold gratuity on the plea that the employee failed to surrender the land which is in his occupation.

Under the Act, the employer cannot withhold the gratuity of an employee only if the termination of the employee is under S.4(6) of the Act. Here, the employer has no case that the employer has terminated the service of the employee on any of the grounds mentioned in S.4(6) of the Act. Amount of gratuity due to an employee can be withheld only on any of the grounds mentioned in the Act and not other wise and at any rate refual of the employees to surrender the land in his occupation in violation of the directive issued by the petitioner-company-employer, even if it is assumed that the land belongs to the employer cannot be treatd as failur to setttle the account by the employee thereby forming a basis for withholding disbursal of arrears of gratuity.

1996 (1) KLT 330 Travancore Plywood Industries Ltd v/s Regional Joint Labour Commissioner

Dismissed employee also is entitled to gratuity Gratuity - Bank employee on dismissal also is entitled to gratuity. *In this judgment* **AIR 1962 SC 673 Garment Cleaning Works v/s Workmen, AIR 1965 SC 839 B.T. Mills v/s B.T. Mills Mazdoor Sangh, AIR 1966 SC 305 Reserve Bank Employees Association v/s**

Reserve Bank *and* **1980 (1) SCC 4 State of Punjab v/s Labour Court** *are referred to.*

ILR 1984 (1) Ker 503 = 1983 KLT 983 = 1983 KLN 670 K. Jayachandran v/s Canara Bank and another

Unexpired portion of punishment could be recovered from gratuity Gratuity -Amounts alleged to be monetary value for "unexpired portion of punishment" could be recovered from gratuity after giving the Officer concerned a reasonable apportunity to explain. *In this judgment* **1971 KLJ 817 Sivaram Nair v/s State of Kerala** *is distinguished.*

ILR 1975 (2) Ker 228 K. Narayanan Elayidom v/s State of Kerala and another

Mere surety is not a joint contractor Gratuity - Continuing guarantee for ultimate balance due from the principal - Debt kept alive by acknowledgements by principal - It does not matter that the principal has kept the debt alive by acknowledgements under Section 19 of the Limitation Act or by payments under Section 20, for, by these acts, there is no renewal of the debt, and no new debt created which is not covered by the guarantee. The debt remains the same, namely, the debt guaranteed; only the bar of time against Recovery is postponed. Section 21 (2) of the Limitation Act has no bearing; for a mere surety is not a joint contractor. *In this judgment* **ILR 1942 Cal 11 Gana Nath Sen v/s Ranjit Ray** *is followed* **ILR 44 Cal 978 Brajendra Kishore Roy Chowdhury v/s Hindusthan Co-operative Insurance Society Ltd, AIR 1939 Nag 31 Suwalal v/s Fazle Hussain** *and* **24 TLJ 1 Ayyavayyan v/s Sankaralingam Iyer** *are not followed.*

ILR 1961 (1) Ker 493 = 1961 KLJ 799 = 1961 KLT 434 Popular Bank Ltd v/s The United Coir Factories and others

RULES

R60. Mode of Investment of Reserve Fund :- (1) Notwithstanding anything contained in Rule 54 a society shall invest or deposit its reserve fund in the following modes:-

(i) in the case of societies with an area of operation limited to one District, save the Financing Bank, in the Central Co-operative Bank:

(ii) in the case of all other societies in the Apex Bank; and

[*(iii) in the case of all societies, in trust securities;]

Provided that the Government may by general or special order, permit any society or class of societies to utilise the reserve fund, either in full or in part in the business of such society or societies;

Provided further that the Registrar may, by general or special order, permit

* Substituted by SRO 434/72

any society or class of societies to utilise up to 50% of the Reserve Fund in the business of such society or societies.

(2). When the utilisation of the Reserve Fund of a society in its business is sanctioned by Government or the Registrar under this rule, the financing Bank concerned shall, on the expiry of 2 months from the date of receipt of the sanction of the Government or the Registrar, refund the amount to the society, without asking for any notice of withdrawal.

R61. Object of Reserve Fund and disposal thereof on the winding up of a society :- (1) The reserve fund shall belong to the society as a whole and is intended to meet unforeseen losses. It shall be indivisible and no member shall have any claim to a share in it. It may be drawn upon only with the special sanction of the Registrar to meet unforeseen losses incurred.

(2) On the winding up of a society, the reserve fund together with other funds constituted by the society, in accordance with its bye-laws shall be applied by the liquidator to discharge such liabilities of the society, as may remain undischarged out of the assets of the society, in the following order, namely:-

(i) the debts due to the Government;

(ii) other debts of the society;

(iii) the paid up share capital; and

(iv) the dividend upon such share capital at a rate not exceeding 10% per annum for any period for which no dividend has been paid.

No dividend shall, however, be paid on share capital if the bye-laws of the society do not provide for payment of dividend;

Provided that in the case of a Co-operative workshop for Ex-servicemen, any balance of assets remaining after meeting the other debts of the society shall be credited to the Government and the Solider's Post War Reconstruction Fund Committee upto the extent of the value of the original gifts in proposition to the contributions made by them. Surplus assets, if any, shall alone be applied by the liquidator for the discharge of the paid up share capital and dividend as laid down in clauses (iii) and (iv):

Provided further that in the case of societies other than Co-operative Workshops for Ex-servicemen, any balance of assets remaining after meeting the debts of the society, shall be credited to the Government in proportion to the amount of money granted by them and the surplus assets, if any, alone shall be applied by the liquidator for the discharge of the paid up share capital and dividend as laid down in clauses (iii) and (iv):

(3) Such portion of the funds as shall remain after the payment mentioned in sub-rule (2), shall be applied to such local objects of public utility as may be selected by the General Body and approved by the Registrar. If within 30 days after the issue of notice by the liquidator after the final closing of the society, the general body fails to make any selection approved by the Registrar, the latter may use the above mentioned

portion of the fund in supporting other Co-operative Societies in the neighborhood or shall deposit with Co-operative Bank of the area until a new Co-operative Society in the area is registered in which event the funds shall be credited to the Reserve Fund of such society. If in the opinion of the Registrar there is no prospect of a new society being formed in such area within a reasonable time, Registrar shall assign the amount to the Bad Debt reserve or reserve fund of the Financing Bank of the area.

CASE LAWS

Dues and debts to workmen Constitution of India - Articles 137 and 142 – Dues of and debts due to workmen and secured creditors – Priority with respect of other dues of company – Held, the dues of workmen and debts due to secured creditors are to be treated pari passu inter se, and prior to all other dues, and assets of the company would remain charged for payment thereafter – Overriding nature of payments – See – Companies Act, 1956 – S.520A,S.529

2004 (9) SCC 741 = AIR 2004 SC 2336 FB Textile Labour Association and another v/s The Official Liquidator and another

Quantified wages payable to the workmen Section 73 (2) - Rule 61 (2) - Qualified wages payable to the workmen has to be considered independently and treated as a preferential claim-Companies Act 1956 (as amended in 1985) Section 529 A & Co-operative societies Act, 1969, Section 73 (2).

Sub-rule (2) will apply only in the case of reserve funds together with other funds constituted by the society. Treating the value realised by selling the assets of the society as part of other funds, the liabilities undischarged can be discharged out of the assets so available. There also, quantified wages payable to the workmen is not included in the list of priorities. What is contained in sub-rule (2) is only debts and paid up share capital, dividend etc. Therefore, the claim of the petitioners in this case for realisation of the quantified wages will have to be independently considered not withstanding the provisions contained in sub-rule (2) of Rule 61 *In this judgement* **1987 (62) Comp Cases 872 Workmen of Rohtas Industries Ltd v/s Rohtas Industries Ltd** *is relied on and* **ILR 1979 (1) Ker 7 State of Kerala v/s Official Liquidator** *is referred to.*

1998 (2) KLT 530 Sundareswaran v/s State of Kerala

Distribution of assets of a society ordered to be wound up Wages due to workers - In the absence of provision like Section 529A of the Companies Act in the Co-operative Societies Act and Rules, when the right of a workman to priority of payment has been recognised by previous decision of this court. The claim put-forth by the workers for amounts awarded under Exhibits P1 and P2 be treated as preferential claim.

1998 (2) KLT 530 S. Sundareswaran and others v/s State of Kerala

RULE

R62. Writing off bad debts and losses :- (1) Such of the dues to the

society including loans and interest thereon which are fund irrecoverable, and duly certified as such by the auditors appointed under Section 63 may be written off with the approval of the general body and sanction of the Registrar.

(2) Before sanction for the write off is accorded the opinion of the financing bank may be obtained if the society is indebted to the financing bank.

R63. Maintenance of fluid resources by societies :- (1) Every society with limited liability which obtains any portion of its working capital by deposits and not coming within the purview of the Banking Regulation Act, 1949 shall maintain fluid resources in such form and according to such standards as may be fixed by he Government from time to time by general or special order and utilise only such portion of its working capital in lending business and distribute its assets in accordance with such standards. The minimum liquid cover shall normally be of the following scale:-

(i) full value of the fixed deposit matured and due for payment at the close of business on any day;

(ii) [*20%] of the total of its demand and time liabilities excluding item (i) at the close of business in any day.

Explanation :- Liquid cover means assets which may be converted into ready cash and includes all or any of the following:-

(a) 100% of cash on hand, balance with Banks, post office savings Bank and of unencumbered investments representing the statutory Reserve Fund.

Note :- Societies shall take credit for purposes of fluid resources only such amounts invested in savings deposits as are readily withdrawable without notice.

(b) 90 % of the market value of Government securities including postal cash certificate or National Savings Certificates.

(c) 80% of the market value of debentures of Land Mortgage Banks and also of other trustees securities.

(d) 80% of the fixed deposits with other banks approved by the Registrar.

(e) Undrawn portion of cash credit with any bankers approved by the Registrar or with the Apex or Central Co-operative Bank.

[**(f) 80% of the market value of Bhadratha Social Security Certificate issued by the Kerala State Financial Enterprise Limited.]

[*(g) 80% of face value of the Treasury small Savings Fixed Deposit Certificate.]

(2) The Government may, by general or special order empower the Registrar to relax the form or the standard so fixed for a specified period, in the case of any society or class of societies.

(3) Co-operative Banks for which the Banking Regulation Act, 1949 is applicable to the standard prescribed under Section 24 of that Act shall be maintained.

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* Substituted and inserted by SRO380/2000

** Inserted by SRO 1338/90

EMPLOYEES STATE INSURANCE

Liability to pay contribution Employees State Insurance Act, 1948 - Sections 40 and 41 - Liability to pay contribution is on the principal employer at first instance - Status of immediate employer as the independent establishment will not take away the liability of the principal employer.*In this judgment* **2003 (1) KLT 886 SC** *is referred to.*

2005 (3) KLT 622 DB Regional Director, E.S.I. Corporation v/s Hindustan Lever Ltd

Instalment facility and interest Employees State Insurance Act, 1948 - Section 39 (5) (a) - Merely because the E.I. Court has granted instalment facility to pay off the principle contributions, it cannot be stated that statutory interest is waived.

2005 (3) KLT 609 DB E.S.I. Corporation v/s Bagsvig

Liability to pay contribution Employees State Insurance Act, 1948 - Sections 44 (1) and 45 A - Principal employer cannot escape the liability to pay contribution, even in respect of the period during which establishment was under the receivership of Provident Fund Commissioner.

2005 (2) KLT 757 ESI Corporation v/s Ramaswamy

New establishment Employees State Insurance Act, 1948 - Section 82 - The question whether the establishment run by the appellant is a new one or the continuation of the old one is finding of fact - No substancial question of law arises and appeal is not maintainable.In this judgment **1981 (1) ILR 293, 1975 Lab IC 412** *and* **2000 (1) SCC 332** *are referred to.*

2005 (2) KLT SN 66 C 79 Abdul Azeez v/s Regional Director

Employee engaged in distributing milk Employees State Insurance Act, 1948 - Section 3 – Employee engaged in distributing milk – Death due to heart attack while on duty – As the death was during the course of employment due to accident arising out of employment, Held, his dependents are entitled to the benefit of the Act.

The evidence of P.W. 2 would show that just before the fall the deceased had complained regarding chest pain. He was subjected to over exertion cannot be disputed. So, there was sudden deterioration of his health which resulted to his death. In such circumstances, it is to be found that deceased Purushothaman died on account of employment injury and the appellants are entitled to dependants benefit.

2003 (2) KLT 988 = ILR 2003 (2) Ker 306 Chandramathi v/s ESI Corporation

New unit had no liability for paying the ESI contribution Employees State Insurance Act, 1948 - S.1(6) – Status of establishment altered through statutory intervention – S.1(6) is not applicable – Strength of employees fall below 20 – New unit had no liability for paying the ESI contribution.

The intention behind S.1(6) is only to thwart attempts on the part of the employees to circumvent the provisions of law by contending that in the course of the year the number of employees got reduced to below the statutory limit and hence coverage stood cancelled. The E.S.I. Court, according to me, was right in its conclusion that the new units had no liability for paying the E.S.I contribution as long as the strength of the employees in the constituent units fell below 20. *In this judgment* **2002 (3) KLT 409** *is distinguished and* **1974 KLT 708** *is referred to.*

2003 (2) KLT SN 92 ESI Corporation v/s Muraleedharan

Bata paid to the staff of a vehicle is a part of the wages Employees State Insurance Act, 1948 - Section 2 (22), S.22(c) – Bata paid to the staff of a vehicle i.e., driver, cleaner, conductor is a part of the wages and therefore attracts contribution.

The settlement referred to in the judgment impugned is an admitted document. We have perused the settlement. C1.(i) there of provided for a fixed rate of bata for the employees. Cl.(ii) provided for over and above what is paid as per Cl.(i), additional bata depending upon the distance covered. There was no evidence on record to show that such payment was to meet any particular incidental expenditure that an employee may incur while on duty. It cannot be termed as an additional remuneration to exclude from the wages, because even if it is an additional remuneration the period of payment is daily and not exceeding 2 months. Therefore even if the contention of the employer that it is an additional remuneration is accepted, depending upon the periodicity of payment it will never go out of the definition of wages going by 2nd part of the definition clause. *In this judgment* **1991 (2) KLT 138** *is distinguished.*

2003 (1) KLT 395 = ILR 2003 (2) Ker 115 DB Damodaran v/s Employees State Insurance Corporation

Wages also includes incentives paid as per settlement scheme Employees State Insurance Act, 1948 - S.2(22) – Definition of wages – Wages also includes incentives paid as per settlement scheme.

If the payment is arising out of contract of employment the periodicity of payment is irrelevant. On the other hand if the payment is made as an additional remuneration necessarily the periodicity has some relevance, to consider whether it forms part of wages. Payment emanates from the provisions contained in the terms of settlement. Necessarily payment is arising out of contract of employment. Then the periodicity of such payment is irrelevant. It becomes wages whatever be the periodicity of payment. As thus the bonus/incentive is being paid in terms of the settlement which forms part of contract of employment, necessarily it is not an additional remuneration for which periodicity is a relevant factor as per the definition of wages extracted above. Even otherwise it has to be sustained because going by the settlement incentive/bonus will be payable on the basis of

performance or production for every month. Therefore, it is something payable for the work done on monthly basis, even though payment is stipulated as one in three months. *In this judgment* **JT 2000 (3) SC 147** *is distinguished.*

2003 (1) KLT 158 DB United Brewaries Ltd v/s ESI Corporation

Ultimate liability to pay contribution always rest with the immediate employer Employees State Insurance Act, 1948 - Constitution - Ultimate liability to pay contribution always rest with the immediate employer.

The ultimate liability to pay contribution always rests with the immediate employer namely, the master in respect of the contribution payable by him towards the employees engaged by or through him. The concept of a principal employer introduced in the Act is merely to safeguard the interest of the employees in the matter of payment of contribution. That does not make the principal employer a master of the employees engaged by the immediate employer. In other words, the ultimate liability rests with the master as far as the servants employed by him is concerned.

2002 (3) KLT 467 ESI Corporation v/s FACT Engineering Works

Establishment employing 20 or more workmen on any particular day will continue to be covered Section 1 (6), 2(12) - Coverage - Establishment employing 20 or more workmen on any particular day will continue to be covered for a period of 12 months irrespective of the fall in number on any day subsequent thereto till the completion of the period of 12 months.

If as on 1.4.1989, there were 20 employees then upto 1.4.1990 the establishment will be continued to be covered before which the new proviso to Section 1 (6) of the ESI Act was brought into force. The effect of such an amendment would be to continue to cover an establishment irrespective of the fall in number. Therefore, when the establishment stood continued to be covered upto 1.4.1990 the amendment brought out will apply to such establishment and by virtue of the amendment such establishment will continue to be covered even thereafter.

2002 (3) KLT 409 Regional Director, ESI Corporation v/s Mookken Devassy Ouseph and sons

Employment injury Section 2 (8), 52 - Employment injury - Employee insured under ESI Act left his house for duty and suffered fatal cardiac arrest enroute--No case that deceased was suffering from hypertension and was taking treatment--Death was not in the course of and out of employment and dependents not entitled to dependant's benefit--There is a distinction between "on the way to employment" and "on employment".

When once the applicants are able to establish that the accident or the death in this case occurred while the deceased was on duty, then only the question of presumption under Section 51 - A would arise. Of course, this presumption is rebuttable one. One cannot come to conclusion that the death of Madhavan, the

employee under the respondent No. 3 was either in the course of employment or out of employment. Therefore, the order of the E.I. Court does not suffer from any irregularity, perversity or illegality. *In this judgment* **1940 AC 190, 1917 AC 352, 67 CLR 496** *and* **2000 LLR 470 Ker** *are referred to and* **1986 ACT 1281 SC, 1958 (65) ACJ 473 SC, 1966 ACJ 213 Mad, 1969 ACJ 422 SC, AIR 1958 SC 881, 1984 ACJ 640 Guj** *and* **1990 Lab IC 1686** *are relied on.*

2002 (3) KLT SN 84 Durgabai v/s Employees State Insurance Corporation

Interest on the contribution payable Section 39 (5) - Interest on the contribution payable - Contribution payable only when the amendment had become operative strictly attached to the liability- Interest payable beyond the period had been taken care in the judgment-Employees Insurance Court is justified in denying interest.

There is an amount of elasticity attached to the liability for payment of contribution making it clear that it will ordinarily be payable as mentioned above. When there was stay order, with regard to coverage of employees drawing wage beyond Rs.3,000/- necessarily, the circumstances in the case is fit to invoke that circumstances in the case is fit to invoke that elasticity and to hold that in this case it was payable only on the lapse of 21 days from the date of disposal of O.P. No. 2771 / 97. The interest payable beyond the period had been taken care in the judgment impugned. In such circumstances, we hold that the Employees Insurance Court was perfectly justified in denying interest. *In this judgment* **1997 (5) SCC 772** *is referred to.*

2001 (3) KLT 393 DB Regional Director, E.S.I. Corporation v/s Cannanore Spinning and Weaving Mills

Casual employees engaged for repair and maintenance of establishment Section 2 (9) - Casual employees engaged for repair and maintenance of establishment - It would be work incidental to the purpose of the establishment and employer was liable to pay contribution for the expenditure met for the repair and maintenance of the building. *In this judgment* **AIR 1986 SC 1686, 1991 (2) KLT 138** *and* **1997 (1) KLJ 657** *are referred to.*

2001 (3) KLT 55 = 2001 (2) KLJ 258 = ILR 2001 (3) Ker 178 DB E.S.I. Corporation v/s Standard Pottery Works

Coverage of shop under Act employing 20 or more than 20 employees Employee's State Insurance Act, 1948, Section 1 (5) - Coverage of shop under Act employing 20 or more than 20 employees--It is immaterial whether the employees are working in one State or different States- The employees working in different branches cannot be treated different than those working in the Head Office-Act will be applicable.

It is not in dispute that the business of the main office and the branches is different. They are carrying on one and the same business. Just because they

have separate supervision by a Manager and separate accounts for convenient purpose in order to administer the day to day affairs of the branches, it cannot mean that they are independent entities. In that view of the matter, the decision of the Employees' Insurance Court that Bangalore office is the main office having branches at different parts of the country for carrying on the same business would mean one unit, cannot be found fault with.

2001 (2) KLT SN 116 P 92 Duvent Fans (P) Ltd v/s E.S.I. Corporation

An accident taking place while travelling as a passenger in any vehicle provided by the employer, the injury sustained is one suffered in the course of employment Sections 2 (8) & 51 C - When an accident, takes place while the employee is travelling as a passenger in any vehicle provided by the employer, the injury sustained would be treated as one suffered in the course of employment.

It is not disputed the fact that the worker was travelling in the transport provided by the employer and he suffered the injury while in transit from the place of employment to his residence. It means that when an accident takes place while the employee is travelling as a passenger in any vehicle provided by the employer for commonly from the place of employment to the residence or vice versa to the place of employment, the injury sustained would be treated as one suffered in the course of employment. *In this judgment* **AIR 1997 SC 432** *and* **2001 (1) KLT 643** *is distinguished.*

2001 (2) KLT 814 DB E.S.I. Corporation v/s Purushothaman

Benefit period Section 2 (14) During the benefit period one continues to be an "insured Person" and is entitled to sickness benefit. *In this judgment* **1998 LIN 688** *is referred to.*

2001 (2) KLT 115 = 2001 (1) KLJ 806 = ILR 2001 (2) Ker 351 DB E.S.I. Corporation v/s Ouseph

Employer getting possession from Court Receiver is not liable for arrears of contribution Section 93 A is not attracted. It is very clear that the section will be applicable only when the employer transfers the establishment. Here the respondent bought the establishment from the Court Receiver free from such liabilities, and not from the previous employer. Therefore, Section 93 A is not applicable in this case. Hence, for the prior period before the respondent took the factory on lease or purchased the factory from the Court Receiver, respondent cannot be made liable for the arrears of contribution.

2001 (1) KLT 214 = 2001 (1) KLJ 118 = ILR 2001 (1) Ker 623 DB E.S.I. Corporation v/s Balraman

Employees - definition of Section 2 (9) - Managing Director of a Company is not an employee in the absence of a contract of employment assigning duties of an employee to him.

Directors were Managing Director's father, mother and one uncle. E.S.I. Corporation did not give any evidence that anyone of them was working under a 'Contract of employment' with the company. Only case is that payment' with the company. Only case is that payments made to them were authorised by the resolution of the Board. But merely because some amounts are paid by the company on the basis of Board resolution to a family run company to one or two Directors, they will not become 'employee' in the absence of a contract of employment and assigned duties of an employee. On the facts of the case under appeal it was not proved that there was any contract of employment with the company and Managing Director or Executive Director.

ILR 2001 (1) Ker 210 DB Cochin Cadalac Pvt. Lt. v/s E.S.I Corporation

Employees working in Equipment Maintenance Department Sections 2 (12) and 14 AA and Factories Act, 1948, Section 2 (k) - Applicability of Act - Employees working in Equipment Maintenance Department of Medical College repair equipments for its use in Hospital amount to manufacturing process - Provisions of the Act becomes applicable to the department - Question of test of dominant nature does not arise.

No question arises of applying the test of dominant nature. The test of dominant nature would have become applicable only if on the basis of this department, falling within the definition of the term "factory", the respondent had sought to make the appellant hospital also amenable to the provisions of the E.S.I. Act. As that is not the case here, no question arises of applying the dominal nature test. Thus it would have to be held that the provisions of the E.S.I Act are applicable to the Equipment Maintenance Department of the appellant.

2001 (1) KLT SN 79 P 65 SC DB Christian Medical College v/s E.S.I Corporation

Factory premises Section 2 (22) - "Factory premises" meaning of - Words and Phrases- "Factory premises".

2001 (1) KLT SN 74 P 62 Narasimha Mills v/s E.S.I. Corporation

Premises in which consultancy services are carried on is a shop and hence covered by the provisions of the Act Section 75 - As the advertising agency sells its expert services to a client to enable him to launch an advertising campaign to advertise his product, the same being offered for at a price, the premises of an advertising agency could reasonably be said to be a shop. Adopting the same logic, we may say that the business carried on by the appellant is of consultancy services to its customers in respect of industrial, technical, marketing and management activities and preparation of project reports by engaging the services of architects, engineers and other experts. In substance, the nature of activities carried on by the appellant is commercial or economical and would amount to parting with the same at a price. *In this judgment* **1984 KLT 1039** *is*

distinguished and **1994 (1) SCC 445, 1987 (2) SCC 101, 1992 (4) SCC 245** *and* **1987 (4) SCC 203** *are relied on.*

2001 (1) KLT SN 50 P 47 SC DB Kirloskar Consultants Ltd v/s E.S.I. Corporation

Disablement should reduce the earning capacity Employees State Insurance Act, 1948 - Section 46 with Sections 51 B and 2 (15A) – Unless disablement is of such a nature as to reduce the earning capacity, the insured person is not entitled to disablement benefits.

ILR 2000 (3) Ker 458 DB R. Ramakrishnan v/s The Regional Director

Death arises out of the employment Employees State Insurance Act, 1948 - Sections 2 (8) and 51A – Deceased employee sustaining stab injuries, while on his way to do tapping – Death arises out of the employment.

The deceased used to come regularly at noon time for tapping the trees in the premises of one Joseph has come out from the statement given by the neighbour. May be that the persons who inflicted the injuries were aware of the habit of the deceased in tapping the trees standing on the premises of Joseph at noon time. The injured would not have been present at the place of accident. But for his engagement for tapping trees. Therefore, according to us, the test that has to be applied as laid down in the decisions of this Court. as well as the decision of the Bombay High Court, has been fully satisfied in this case. *In this judgment* **1979 KLT 97, 1996 (1) KLT 423** *and* **AIR 1955 Bom 105** *are relied on and* **1973 Lab IC 666** *is referred to.*

2000 (3) KLT 419 = 2000 (2) KLJ 779 DB E.S.I. Corporation v/s Chellappan

Assessing employment strength Employees State Insurance Act, 1948 - Sections 2 (17), 38 and 40 – Tests to be applied for assessing employment strength for the purpose of coverage under the Act – If, inspite of the apparent veil, different firms constitute one integrated whole, the establishments in questions are actually one.

The relationship between the units will have to be carefully appraised to find out the reality bearing in mind the object of the Statute. Unity of ownership, management and control and unity of employment, will be important tests in this regard. Functional integrality and general unity are also certainly important. Some connection between the activities in the different institutions by itself may not be sufficient to justify an inference one way or the other; but the employer's own conduct in mixing up or not mixing up the capital, staff and management may often provide a certain answer. What is to be looked into is whether there is a real thread of unity. *In this judgment* **1960 (1) LLJ 1960** *and* **1993 (2) KLT 573** *are relied on.*

2000 (2) KLT 741 = 2000 (1) KLJ 1016 = ILR 2000 (3) Ker 219 DB Madona Textiles v/s E.S.I. Corporation

Loss of earning capacity Employees State Insurance Act, 1948 - Sections 2 (15A), 46 and 51B – If the employment injury did not affect the loss of earning capacity in view of the continued earning capacity in view of the continued employment of the insured person with usual pay and allowances and periodical increments, disablement benefit cannot be granted to such person.

The person under disablement remains on strike. Of course, there is no specific provision covering a situation of permanent disablement either total or partial. Probably this can be on the assumption that on account of the permanent disability either total or partial an insured person's earning capacity may be affected either total or partial. But if the permanent disability by itself does not result in reduction of salary, the legislative intent, according to us, is that the disablement benefit cannot be granted so long as such disability did not affect his employment. If the employment injury did not affect the loss of earning capacity in view of the continued employment of the insured person with usual pay and allowances and periodical increments, the intention of the legislature is that disablement benefit cannot be granted to such a person. *In this judgment* **1998 (1) KLJ 254, 1988 (1) LLJ 63** *and* **1978 (1) LLJ 141** *are distinguished and* **AIR 1964 Punj 512** *is referred to.*

2000 (2) KLT 538 DB Ramakrishnan v/s E.S.I. Corporation

After granting instalment facilities Corporation cannot demand interest or damages Employees State Insurance Act, 1948 - Section 85 B – After granting instalment facilities as per an agreement between the parties, Corporation cannot demand interest or damages on the above amount.

After having entered into an agreement and fixing the quantum of arrears on the basis of such agreement and allowing the applicant to pay the arrears in instalments, the Corporation cannot be permitted to demand interest on damages for the period during which the society paid the amount in instalments without any default as per the terms of the agreement.

2000 (2) KLT 254 DB E.S.I. Corporation v/s Naduvattam G.M.V.S. Sangham Ltd

Production incentive paid quarterly is not Wages Employees State Insurance Act, 1948 - Section 2 (22) – Production incentive paid quarterly if "Wages" – Payments made under a "Scheme" – Such incentive does not fall within the definition of "Wages".

The additional remuneration to become wages has to be "paid" at intervals not exceeding two months as distinguished from 'being payable'. Thus, under the last part there has to be actual payment. When in the last part of S.2(22), the word used is 'paid', we cannot add the word 'payable' or other similar expression thereto. The payment of production incentive, on the facts of present case, does not fall either under the first part or last part of the definition of term 'wages' as

defined in S.2(22) of the Act. *In this judgment* **1999 (2) KLT SC SN 53, 1994 Supp (3) SCC 580, JT 1993 (6) SC 227** *and* **1984 (4) SCC** *are referred to.*

2000 (2) KLT SN 13 P 11 SC FB Whirlpool of India Ltd v/s E.S.I. Corporation

Accident happened within the premises of the factory long before the workshift begins cannot be said to be taken place in the course of employment Employees State Insurance Act, 1948 - Section 2 (8) – Accident leave – Accident happened within the premises of the factory long before the workshift begins – Accident cannot said to be taken place in the course of employment – Tests to be applied.

It means that the injury or accident occurred while the employee was performing his duty. It is not the case of the employee that he was performing his duty. It is his case that he was in the factory premises in connection with duty. There is a marked distinction between a case where an employee is inside the factory premises in connection with duty and he being actually on duty. In order to succeed it has to be proved by the employee (1) that there was an accident and (2) that the accident occurred while he was on duty. Even if it is stated that there was any casual connection with his employment in the factory, it can not be said to have been sustained while one duty. "On duty" would mean occupied in performance of duty, apparently on the basis of a contract of service. Factual position as highlighted above shows that the accident cannot be said to have taken place while employee was on duty.

2000 (1) KLT 643 = ILR 2000 (2) Ker 213 DB Travancore Titanium Products Ltd v/s Jerro

Leave for Accident Employees State Insurance Act, 1948 - Section 2 (8) – Leave for Accident – Accident happened within the premises of the factory long before the workshift begins – Held – Accident cannot said to be taken place in the course of employment – Tests to be applied.

2000 (1) KLJ 191 DB Travancore Titanium Products Ltd v/s Jerro

Persons in charge can be prosecuted without prosecuting the company Employees State Insurance Act, 1948 - Section 86 A - Persons in charge of and responsible to the Company for the conduct of its business at the time when the offence was committed can be prosecuted without prosecuting the company. *In this judgment* **1984 (4) SCC 352 Sheortan Agarwal v/s State of MP** *and* **1993 (2) KLT 224 Alex v/s Vijayan** *are followed and* **AIR 1988 SC 1128 U.P. Pollution Control Board v/s M/s Modi Distillery** *is distinguished.*

ILR 1999 (3) Ker 856 = 1999 (3) KLT 248 =1999 (2) KLJ 1100 E.S.I Corporation v/s K.A. Vijayan and others

Insurance Court has power to reduce or cancel the penalty imposed by the Corporation Section 85 (B) 2nd Proviso - A plain reading of the proviso makes it clear that it is classificatory in nature and it does not exclude the

discretion to pass appropriate order after getting the explanation of the employer concerned pursuant to the notice issued under the first proviso. Discretion to decide the quantum of penalty remains unaffected even after incorporation of the 2nd Proviso. *In this judgment* **1998 (2) KLT 280 Regional Director, E.S.I. Corporation v/s Sakti Tiles** *is relied on.*

ILR 1999 (3) Ker 135 = 1999 (2) KLT 851 = 1999 (2) KLJ 94 DB E.S.I. Corporation v/s Hindusthan Tile Works

E.S.I. Court has jurisdiction to decide the quantum of punishment Employees State Insurance Act, 1948 - Section 75 (1) (g) and 85 B – The penalty contemplated in S.85 B falls under 'other dues' contemplated in S.75(1)(g) – E.S.I. Court has jurisdiction to decide the quantum of punishment.

The first contention that the E.S.I Court had no jurisdiction to adjudicate the matter has no merit in view of the specific provisions in S.75(1)(g) of the Act which empowers the court to adjudicate on any dispute on any matter which is in dispute between a principal employer and the Corporation, in respect of any contribution or benefit or other dues payable or recoverable under the Act or any other matter required to be or which may be decided by the Employees' Insurance Court under the Act. The penalty contemplated in S.85-B definitely falls under 'other dues' contemplated in the aforesaid provision and as such the Employees' State Insurance Court had full jurisdiction to decide the issue. *In this judgment* **1988 (2) KLT 280 Regional Director, ESI Corporation v/s Sakthi Tiles** *is followed.*

1999 (2) KLT 851 = 1999 (2) KLJ 94 = ILR 1999 (3) Ker 135 DB E.S.I. Corporation v/s Hindustan Tile Works

Incentive bonus and sales commission Employees State Insurance Act, 1948 - Section 2 (2) – 'Wages' read with Ss.2(23) 'Wage period' and 39(4) 'contribution' – Incentive bonus and sales commission – If payment is not made within a period of two months 'incentive bonus and sales commission cannot be included as 'wages' to attract the deduction and deposit of E.S.I.'s contributions.

Though no clue can be taken from the Statement of Objects and Reasons for the Bill (Which became Employees State Insurance (Amendment) Act, 1951), the rationale could be discerned as interlinked with the definition clause "wages period" in S.2(23). S.40 of Act casts liability on the Principal Employer to pay the contribution to the Corporation, whether it is of employer's or of employee's contribution. Of course the Principal Employer is allowed to recover that part of "employer's contribution" by making deduction from his wages. No employer shall have the permission to dodge the payment of contribution on the premise that annual payments have to be worked out. Normally, the wage period is one month, but the Parliament would have thought that such "wage period" may be extended a little more, but no employer shall make it longer than two months. This could be the reason for fixing a period of two months as the maximum

period for counting additional remuneration so as to make it part of "wages" under the Act. *In this judgment* **1984 (4) SCC 324, 1994 Supp (3) SCC 219** *and* **1997 (11) SCC 752** *are referred to.*

1999 (2) KLT SN 58 P 53 SC DB Handloom House, Ernakulam v/s Regional Director, E.S.I.

Employer cannot escape from liability on the plea that no data was available Employees State Insurance Act, 1948 - Sections 40 and 26 – Demand made after a long period of time Employer cannot escape from liability on the plea that no data was available with about the exact number of employees employed by it and payment made.

The claim of the appellant – Corporation could not have been successfully challenged by the respondent only on the specious plea that during the relevant period from 1971 to 1982 no data was available with the respondent about the exact number of employees employed by it and the payment made to them during the relevant period. Therefore, in that short ground the appeal will have to be allowed. *In this judgment* **1993 (1) KLT 251 = JT 1993 (1) SC 139 E.S.I. Corporation v/s Hotel Kalpaka International** *and* **JT 1993 (5) SC 96 E.S.I. Corporation v/s Harrison Malayalam (P) Ltd** *are referred to.*

1999 (1) KLT 145 SC DB E.S.I. Corporation v/s Harrisons Malayalam Ltd

Compensation under any other law is a bar to the benefit under the Act Employees State Insurance Act, 1948 - Section 61 - If the injured person has received compensation under any other law he is not entitled to the benefit under the Act. *In this judgment* **1997 (2) KLT 635 SC Western India Plywood Ltd v/s Asokan** *is relied on.*

ILR 1998 (3) Ker 563 DB Rosamma V.T. v/s Regional Director, ESI Corporation

Employees Insurance Court has no power to direct the Corporation to rehabilitate an employee Employees State Insurance Act, 1948 - Section 54 A (2) (ii) and Section 19 - Employees Insurance Court has no power to direct the Corporation to rehabilitate an employee by giving him alternate employment while exercising the powers under Section 54 A (2) (ii) of the Act.

ILR 1998 (3) Ker 557 DB The Regional Director ESI Corporation v/s M.N.Unnikrishnan

Directors of Public Ltd company can be prosecuted for misappropriation of employees fund as not deposited in time Sections 40 and 2 (17) - Directors of Public Ltd. company is not 'employer' for purposes of E.S.I.Act and liable for prosecution for misappropriation of employees fund as not deposited in time - See - Penal Code. 1860, Ss.405 Expl. 2 and 406.

1998 (2) KLT SN 39 P 34 E.S.I. Corporation v/s Aggrawal

When the employer denies the liability he has first to to prove his case Sections 45 A & 75 - When the employer denied the liability or applicability of the provisions of the Act or the quantum, the employer has first to lead the evidence, to prove its case.

Though Section 75 of he Act does not envisage as to who has to approach the Insurance Court, by necessary implication when the employer denies the liability or applicability of the provisions of the Act or the quantum of the contribution to be deposited by the employer, it is for him to approach the Insurance Court and seek adjudication and it is not for the Corporation in each case, whenever there is a dispute, to go to Insurance Court and have the dispute adjudicated. Otherwise the Act would become unworkable and defeat the object and purpose of the Act. The stand taken by the applicants praying the Court to direct the Corporation to lead evidence first in the application filed under Section 75 of the Act for declaration that they will not come under the purview of the Act is fallacious. The person who comes to the Court with a grievance has a duty to establish his case by leading evidence, oral and documentary and substantiate his claim. The basic principle has been set out in S. 102 of the Evidence Act. *In this judgment* **AIR 1997 SC 2441 E.S.I. Corporation v/s M/s F. Fibre Bangalore (P) Ltd** *is relied on and* **1989 (II) LLJ 285 S.T. Reddiar & Sons v/s Regional Director** *and* **1990 (II) LLJ 464 E.S.I. Corporation v/s Vijayamohini Mills** *are distinguished.*

1998 (1) KLT 786 = ILR 1998 (2) Ker 723 DB E.S.I. Corporation v/s Hotel Armed

Section 2 (9) (b) is not unconstitutional on the ground of excessive delegation of powers to the executive As per Section 2 (9) (b) of the Act, the legislature has empowered the Central Government to prescribe the wage limit for the application of the Scheme. The central Government has accordingly fixed the wage limit from time to time by framing Rules as preovided in S.95(1) of the Act. The present enhancement of the limit has also been effected by way of an amendment of the Rules. Legislature has empowered the Central Government to prescribe the wage limit for the application of the Act and the Scheme. The rule making power is thus given to the highest executive authority. That authority should be presumed to act in the interest of the public. It may not be possible for a legislature to envisage in detail all future contingencies and requirements and make provisions for them. This is especially so in a case like the one on hand where taking note of the requirements of the changed conditions in the society, wage limit has to be fixed from time to time for the benefit of the employees. So, the Legislature is forced to leave the rule making authorities with ample discretion or power to act in accordance with the ondications given in the Act and the general object and purpose of the legislaton. So long as the legislature incidates

the subject in which the delegated authority can frame rule, it is difficult to find the vice of excessive delegation to strike down a provision like the one on hand taking note of the nature of the subject on which rule making authority has been given discretion.

1998 (1) KLT 505 = ILR 1998 (2) Ker 569 DB Carbon & Chemicals I.E. Association v/s Union of India

Section 2 (9) (b) - Not arbitrary or violative of Article 14 Employees State Insurance Act, 1948 - Section 2 (9) (b) - Not arbitrary or violative of Article 14 of the Constitution of India – Notification amending the rule and the scheme making the Act applicable to employees drawing a monthly salary of Rs. 6,500/ - is legal and valid.

ILR 1998 (2) Ker 569 = 1998 (1) KLT 505 DB Carbon and Chemicals India Employees Association v/s Union of India and others

The cause of action arises on the date on which the Corporation makes the claim Section 77 (1 A) - Clause (b) and proviso - The cause of action in respect of a claim by the Corporation from the principal employer arises on the date on which the Corporation makes the claim and not on the date on which the contribution becomes due.

The proviso refers to the claim arising out of a cause of action and not a claim arising out of contribution due. By a legal fiction contained in clause (b) the cause of action in respect of a claim by the Corporation from the principal employer arises on the date on which the Corporation makes the claim for the first time. What is meant to be understood is to decide when the cause of action in respect of a claim by the Corporation had arisen. Once the date of arising of cause of action is known then the Corporation cannot make any claim after five years from the date on which it has arisen. In the present case, the cause of action arose for the first time with the issue of notice dated 1.11.1988. That means, in case the Corporation proposes to file application invoking Section 77 (1A) it cannot make a claim arising out of this cause of action after. 1.11.1993. It would thus be seen that the cause of action for contribution would arise only after the decision by the Insurance Court in the proceedings is laid under Section 75 of the Act, Until then, the cause of action cannot be said to have arisen. In other words, there is no bar limitation. In *this judgment* **AIR 1997 SC 2415 M/s Goodyear India Ltd v/s Regional Director, E.S.I. Corporation** *is followed.*

1998 (1) KLT 373 = 1998 (1) KLJ 485 = ILR 1998 (2) Ker 365 DB Vijayan Pillai v/s E.S.I. Corporation

Overtime Wages would be wages within the meaning of Section 2 (22) The question raised before the Supreme Court was whether overtime wages would be wages within the meaning of S.2(22) of the E.S.I., Act, 1948. The Supreme Court after survey of the authorities and taking note of the conflict of

judicial opinion on the point between several High Courts came to the conclusion that overtime wages would be wages within the meaning of S.2(22) of the Act.

1998 (1) KLT SN 89 P 89 = ILR 1998 (3) Ker 23 DB Vijayamohini Mills v/s E.S.I. Corporation

Wages will include overtime wages also Employees State Insurance Act, 1948 - Section 2 (22) - "Wages" – Definition of –"Wages" will include overtime wages also. *In this judgment* **1997 (2) LLJ 700 SC Indian Drugs and Pharmaceuticals Ltd v/s Employees State Insurance Corporation** *is followed.*

ILR 1998 (3) Ker 23 = 1998 (1) KLT SN 89 DB M/s Vijayalakshmi Mills v/s The Regional Director, E.S.I. Corporation

Managing Director is an employee Section 2 (9) and 22 - Managing Director of an incorporated company who is also a Director entrusted by Board of Directors with specified functions for a specified annual remuneration is an employee and not principal employer.

The respondent-company is not a partnership firm. It is a separate legal entity. It has chosen one of its directors to act as Managing Director on payment of remuneration for the extra work to be done by him as such. He has to discharge his functions as Managing Director under the supervision of the entire Board of Directors. Thus, there is employer-employee relationship between two separate entitles, On the one hand is the Managing Director employed as such and on the other the respondent company being a separate legal entity which employs him.

1998 (1) KLT SN 36 P 40 = 1998 (1) SCC 86 DB E.S.I. Corporation v/s Apex Engineering (P) Ltd

The Corporation is bound to find out suitable employment to such employee who becomes disabled on account of employment injury Section 19 - If an employee is sent out of employment on account of disability, E.S.I. Corporation should extend full rate of permanent disablement benefit to him - The Corporation is bound to find out suitable employment to such employee who becomes disabled on account of employment injury.

1998 (1) KLT SN 25 P 29 DB E.S.I. Corporation v/s Saseendran

The failure to carry out the statutory obligation should be adjudicated by a quasi judicial enquiry Section 85 B - If there is no contumacious conduct on the part of the employer in not paying the contribution within the period described under Regulation 31, no damages under the section could be imposed on him.

Since the failure to carry out the statutory obligation should be adjudicated by a quasi judicial enquiry and the levy of damages is quasi penal in character, such damages will not ordinarily be imposed unless the party obliged to pay the amount due, acted either deliberately or in defiance of law, or was guilty of contumacious or dishonest conduct, or acted in conscious disregard of its obligation.

1998 (1) KLT SN 24 P 28 DB E.S.I. Corporation v/s Bhaskaran

Employer and employee are liable to remit the contribution during period of suspension Sections 2 (22), 39 and 40-Subsistence allowance paid during period of suspension is part of wages as defined in Section 2 (22) - Employer and employee are liable to remit the contribution in connection with the subsistence allowance received during period of suspension.

It is axiomatic to say that during suspension period pending enquiry the employer-employee relationship does not come to amb end. It would come to an end only when after enquiry his services on proof of misconduct are ordered to be terminated. Till then the continues to be an employee for all purposes subject to only two consequences flowing from such interim suspension, namely, in the first place the employee will remain prohibited from actually offering his services and discharging his duties as the employer does not want him to do so and secondly during the period of suspension pending enquiry remuneration payable, to the employee will get curtailed and will be treated as subsistence allowance as legally permissible under the rules and which may range from 50% at the lowest to even 100% of the wages at the highest if the suspension continue beyond the requisite period as contemplated by the service rules and regulations concerned. In case of a suspended employee he gets lesser amount by way of subsistence allowance but that is also as a remuneration for being continued on the roll of employment as an employee and so far as he is concerned he cannot be said to have not fulfulled hispart of the terms of contract of employment as he is willing to offer his services but it is the employer who prohibits him from actually giving his service under the contract of employment. *In this judgment* **1993 Supp (1) SCC 615 Assistant Regional Director Nagpur v/s Model Mills Nagpur Ltd, 1994 Supp (3) SCC 580 Modella Woolens Ltd v/s Employees State Insurance Corporation and another, AIR 1958 Bom 262 Ganpatla Mulchandji Joshi v/s First Civil Judge, Class 1, Nagpur and another, AIR 1956 Bom 336 Nutan Mills v/s Employees State Insurance Corporation,** *and* **1996 (8) SC All 688 Indian Drugs & Pharmaceuticals Ltd etc. v/s Employees State Insurance Corporation etc***.are referred to.*

1997 (2) KLT 753 = 1997 (7) SCC 665 = 1997 SCC (L&S) 1845 DB E.S.I. Corporation v/s Popular Automobiles

Damages Sections 53 and 61 - Employee getting benefits under the Act - Suit for damages is not maintainable - Damages.

Section 53 disentitles an employee who has suffered an employment injury from receiving or recoverin compensation or damages under the Workmen's Compensation Act or any other law for the time being in force or otherwise. The use of the expression "or otherwise" would clearly indicate that this section is not limited to ousting the relief claimed only under any statute but the wordings of the section are such that an insured person wold not be entitled to make a

claim in Torts which has the force of law under the E.S.I.Act. Even though the ESI Act is a beneficial legislation the Legislature had thought it fit to prohibit an insured person from receiving or recovering compensation or damages under any other law, including. Torts, in cases where the injury had been sustained by him is an employment injury. *In this judgment* **1987 (1) KLT 89 FB Ashokan v/s Western India Plywoods Ltd** *is reversed,* **JT 1996 (5) SC 648 = (1996) 4 SCC 255 A. Trehan v/s Associated Electrical Agencies and another** *is relied on,* **(1982) 60 FJR 118 K.S.Vaantha & others v/s Karnataka State Road Transport Corporation, AIR 1982 Mad 223 Maangalamma and others v/s Express Newspapers Ltd and another** *and* **1984 Lab IC 1355 Annapurana and others v/s General Manager, Karnataka State Road Transport Corporation Bangalore and others** *are approved and* **AIR 1972 Mys 255 Hindustan Aeronautics Ltd v/s P. Venu Perumal and another** *is referred to.*

1997 (2) KLT 635 = 1997 (7) SCC 638 DB Western India Plywood Ltd v/s Ashokan

Mere ex gratia payment or gifts or inams paid at the will of the employer as a gesture of good will will not come within the ambit of wages under S.2 (22) The payments made by the appellant to the employees in these case voluntarily of a gratuitous nature being ex gratia payments as presentation or gift in a gesture of good will for achievement of the target fixed for each month within the same frame work cannot be held to be additional remuneration as contemplated in the definition of 'wages' under S.2 (22) of the Act so as to claim ESI contribution on those amounts. Hence, the Employees Insurance Court is not at all justified in holding that the payment made as productivity incentive representation or gift will fall within the latter part of the definition of wages' under S.2(2) of the ESI Act and that finding has to be set aside. *In this judgment* **AIR 1986 SC 237 Regional Director, ESI Corporation v/s Bata Shore Co. (P) Ltd, AIR 1984 SC 1680 M/s Harihar Polyfibres v/s Regional Director ESI Corporation, 1994 (1) LLJ 545 Welliam (India) P. Ltd v/s ESI Corporation, 1989 (2) LLJ 285 S.T. Reddiar & Sons v/s Regional Director, 1980 Lab IC 431 N.G..E.F. Ltd. v/s Deputy Regional Director, ESI Corporation Bangalore, 1976 (1) LLJ 17 Carborundum Universal Ltd v/s ESI Corporation, Trichur,** *and* **1968 (1) LLJ 550 Braithwaite & Co. (India) Ltd v/s Employee's State Insurance Corporation** *are referred to.*

1997 (2) KLT 550 = 1997 (2) KLJ 430 = ILR 1998 (1) 245 DB Kuttukaran Engine Rebuilders v/s E.S.I. Corporation

Date of denial of benefits would be the starting point of limitation Section 77 (1A) - It is not the date of medical certificate but the date of denial of benefits on the part of the Corporation that would be the starting point of

limitation for an applicant to approach the Insurance Court.

1997 (2) KLT 415 = 1997 (2) KLJ 320 = ILR 1998 (1) Ker 109 DB Vasumathy v/s E.S.I. Corporation

Applications not to be dismissed on technical grounds Employees State Insurance Act, 1948 - Section 77 (1) - As a welfare legislation applications not to be dismissed on technical grounds - The applicant was prevented from filing his application in time due to illness arising out of her employment – Delay to be condoned.

ILR 1998 (1) Ker 109 DB Vasumathy v/s ESI Corporation and another

Contribution on wages paid to the workers employed by contractor for maintenance Section 2 (22) - Wages paid to the workers employed by contractor for maintenance and repair of the office building - Employer is liable for contribution.

From the definition of immediate employer in section 2(13) it is clear a contractor who has undertaken the execution of the work which is ordinarily part of the work of the factory or establishment of the principal employer would come within the terms of immediate employer S.(4) of S.39 Clearly indicates employment of a casual employee when it provides and where an employee is employed for part of the week'. When an employee is employed for part of a week, he cannot but be a casual employee. The constitution of the office building or the maintenance or repair of existing building is a work incidental to the purpose' of the establishment. The office building is insepararbly belonging to connected with or inherent in establishment. The expression "work of the factory" should also be understood in the sense of any work necessary for the expansion of the factory or establishment or for augmenting or increasing the work of the factory or establishment. Such work is incidental or preliminary to or connected with the work of the factory or establishment. *In this judgment* **1986 KLT 1397 Regional Director, E.S.I.Corporation v/s Narahari Rao** *and* **AIR 1986 SC 1686 Regional Director, E.S.I. Corporation v/s South Indian Flour Mills** *are relied on.*

ILR 1997 (2) Ker 771 = 1997 (1) KLJ 657 DB E.S.I. Corporation v/s Kerala Wheat Flour Roller Mill

Managing Director as an employee Section 2 (9) - Managing Director of a Company when can be treated as an employee - Tests to be applied.

One of the tests laid down to ascertain whether a person is a servant or an agent is to examine whether under the terms of his employment, the employer exercises a supervisory control in respect of the work entrusted to him. A servant acts under the direct control and supervision of his maser, whereas the agent in exercise of his work is not subject to the direct control or supervision of the principal, though he is bound to exercise his authority in accordance with all lawful orders and instructions which may be given to him from time to time by

his principal. Merely because it is legally possible for a Director or Managing Director to function in the capacity of an employee also it does not mean that in all cases a Director or Managing Director who receives remuneration has necessarily to be treated as an employee, It has to be further established that either under the provisions of Articles of Association or of separate agreement there was a contract of employment between the Company and the Managing Director or the Director. *In this judgment* **AIR 1973 SC 637 Sri Ram Prasad v/s Commissioner of Income Tax New Delhi, 1961 Ac 12 Catherine Lee v/s Lee's Air Farming Ltd** *and* **(1963) 1 All ER 716 Boulting v/s Cinematograph Association, etc.** *are relied on,* **1973 KLT 927 Insurance Inspector v/s Victory Tile Works** *and* **1984 Lab IC 844 Regional Director, E.S.I. Corporation v/s M/s Margarine & Refined Oils Co. (P) Ltd. Bangalore** *are referred to and* **ILR 1975 (2) Ker 207 Regional Director of E.S.I Corporation v/s M/s posamanna Tile Works,** *and* **AIR 1985 SC 278 Regional Director, Employees' State Insurance Corporation Trichur v/s Ramanuja Match Industries** *are distinguished.*

1997 (1) KLT 438 = 1997 (1) KLJ 270 = ILR 1997 (2) Ker 529 E.S.I. Corporation v/s Sarathi Lines (P) Ltd

establishments where blasting operation is conducted cannot be treated as mine Employees State Insurance Act, 1948 - Section 2 (12) - Establishment engaged in preparation of rubbles and crushing metals – Merely because blasting operation is conducted there using explosives, such establishment cannot be treated as 'mine'.

ILR 1997 (2) Ker 148 = 1997 (1) KLJ 396 DB Employees State Insurance Corporation v/s C.P. David

Members of society are not working as employees Section 2 (9) - Members of Co-operative Society being given yarn by Society - Finished products supplied to Society and they are being paid by paying the difference in the price of yarn and finished products - Profit shared by all members - Members of society are not working as employees and were earning from them.

By the nature of the functioning of the Society, it appears that all the members of the society share the profit according to the quantity of the finished products and the price of the yarm is collected from the members. It cannot be said that the members of the Society were working as employees and they were earning therefrom. The members of the Society are not workers of the Society and the members of the Society were self-employed and they share the profits. *In this judgment* **1980 KLT 199 Regional Director, Employees State Insurance Corporation v/s Taj Textiles Industrial Co-operative Society Ltd** *and* **1986 Lab IC 1410 M/s P.M. Patel & Sons and others v/s Union of India and others** *are distinguished and* **1986 Lab IC 370 Employees State Insurance Corporation,**

Hyderabad v/s M/s Laxmi Power Loom Weavers Co-operative and Sales Society Ltd *are referred to.*

1997 (1) KLT 342 = ILR 1997 (3) Ker 223 DB E.S.I. Corporation v/s Vattiyoorkavu H.W. Co-operative Society

Principal Employer Section 2 (17) and 93 A - "Principal Employer" - Definition of - When a factory is leased out, liability to make contribution to the ESI during the period of the lease is that of the lessee.

Whenever persons who are employed through immediate employer the principal employer continues to be the occupier of the factory. But in the case of lease the position is entirely different. The right to run the factory is transferred to the lessee who therefore gets a proprietary right in the property viz., factory. The licence to run the factory has to be taken in his name and he will be occupier of the factory. Therefore, the position is when the owner himself is running the factory he will be the principal employer. But if a lessee is running the factory he will be the principal employer. But if a lessee is running the factory the lessee will be the occupier and therefore the principal employer.

ILR 1997 (2) Ker 453 = 1997 (1) KLJ 321 DB Thomas K.C. and others v/s Employees State Insurance Corporation and another

Liability for damages for delay in making the payment of contribution Employees' State Insurance Act, 1948 - Liability for damages for delay in making the payment of contribution - such damages will not ordinarily be imposed unless the party obliged to pay the amount due acted either deliberately or in definance of law or was guilty of contumacious or dishonest conduct or acted in conscious disregard of its obligation. *In this judgment* **1988 (2) KLT 280 Regional Director E.S.I. Corporation v/s Sakthi Tiles** *is relied on.*

1997 (1) KLJ 172 DB Regional Director, ESI v/s T.K. Bhaskaran

Due date of contribution Section 39 and Regulation 31 - Contribution would become due within the period prescribed under Regulation 31 and not when demand notice under See. 45 A is issued by the Corporation.

1997 (1) KLJ 172 DB Regional Director ESI v/s T.K. Bhaskaran

Overtime wages paid to an employee Section 2 (22) - Wages - Overtime wages paid to an employee are wages to for deduction and deposit of ESI's contributions.

Both the remuneration received during the working hours and overtime constitute a composite wages and thereby it is a 'wage' within the meaning of S.2(22) of the Act. The Act is a welfare legislation and the definition of wages is designedly wide. Any ambiguous expression is, of course, bound to receive a beneficient constitution at the hands of the Court.

1997 (1) KLT SN 36 P 26 = 1997 LLR 1 DB SC Indian D & P Ltd v/s E.S.I. Corporation

Appeal against the orders of the ESI Court Employees State Insurance Act, 1948 - Section 82 - Appeal against the orders of the ESI Court on the ground that the Court has no jurisdiction to quash a criminal proceeding pending before the Criminal Court –Since lack of jurisdiction was not raised before that Court no substantial question of law arises to entertain the appeal. *In this judgment* **1973 (44) FJR 536 Parli Tile Works (P) Ltd v/s E.S.I Court** *is relied on.*
ILR 1996 (3) Ker 160 = 1996 (1) KLJ 696 = 1996 (1) KLT 781 DB E.S.I. Corporation v/s M/s Radhas Printers

The accident must take place within or during the period of employment Section 2 (8) - Any accident which occurred while going to the place of employment or for the purpose of employment, cannot be said to have arisen out of his employment.

There is no casual connection between the accident and the employment. The accident must take place within or during the period of employment. If the employee's work shift begins at 4.30 P.M. any accident before that time will bot be "in the course of his employment". The journey to the factory may have been undertaken for working at the factory at 4.30 P.M. But this journey was certainly not in course of employment. If "employment" begins from the moment the employee sets out from his house for the factory, then even if the employee stumbles and fall down at the door-step of his house, the accident will have to be treated as to have taken place in the course of his employment. This interpretation leads to absurdity and has to be avoided. *In this judgment* **67 CLR 496 South Maitland Railway Properties Ltd v/s James** *and* **AIR 1958 SC 881 Saurashtra Salt manufacturing Company v/s Bai Value Raja** *are relied on and* **1977 1 Weekly Law Reports 109 National Insurance Commissioner, Ex Parte Michal, 1964 (3) SCR 930 General Manager, B.E.S.T. Undertaking, Bombay v/s Mrs. Agnes,** *and* **1981 Lab IC 165 Sadgunaben Amrutlal and others v/s The Employees' State Insurance Corporation. Ahamedabad** *are referred to.*
1996 (2) KLT 799 = 1996 (6) SCC 1 = 1996 SCC (L&S) 1361 FB E.S.I. Corporation v/s Francis De Costa

Act applies to be establishments employing more than ten persons Sections 2 (12) and 1 (5) - Notification issued under S.1(5) will not exclude a factory which would not come within the definition of a factory under S.2(12) as it originally stood - On the basis of notification issued under S.1(5), Act applies to be establishments employing more than ten persons.

The intention to bring within the purview of the Act more establishments can be achieved by the issuance of the Notification under S.1(5) of the Act and once a Notification is brought, what one has to see is whether going by the Notification the particular establishment would be covered or not. The argument that the issuance of the Notification to rope in a factory employing less than 20

people would go against the intention expressed by the original definition of 'factory' in the Act would not by itself lead to the conclusion that the factory otherwise not covered initially by the Act could not be brought within the purview of the Act at all. The very purpose of S.1(5) of the Act, as we see it is to expand the separation of the Act and bring within its purview establishments that initially stood outside the Act. *In this judgment* **1977Lab IC 1213 Sundar Paper Box Co. v/s State of Orissa, 1988 (57)) FLR 379 E.S.I. Corporation v/s Jodhpur Coffee House, 1991 (4) SLR 768 M/s Micro Alloys and Castings v/s Union of India** *and* **1989 Lab IC 463 A.P. Handloom Weaves Co-operative Society Ltd v/s E.S.I., Hyderabad** *are relied on.*

1996 (2) KLT 769 = 1996 (2) KLJ 89 = ILR 1996 (3) Ker 602 DB Regional Director ESI Corporation v/s T.V. Poulose

Hotels and restaurants attached with a kitchen Section 2 (12) - Factory - Definition of - Hotels and restaurants attached with a kitchen where manufacturing process takes place, will fall within the preview of the definition.

The Supreme Court has upheld the finding of the High Court that since a manufacturing process in the form of cooking and preparing food is carried on in the kitchen and the kitchen is part of the hotel or precincts of the hotel, the entire hotel falls within the purview of the definition of the word 'factory' contained in section 2 (12) of the Act. *In this judgment* **1993 (4) SCC 363 G.L. Hotels Ltd v/s T.C. Sarim** *is relied on.*

ILR 1996 (2) Ker 1 DB Hotel Annapurna v/s Employees State Insurance Corporation and others

E.I.Court has no jurisdiction to quash a criminal prosecution Section 75 - E.I.Court has no jurisdiction to quash a criminal prosecution launched for delayed payment.

If the question of law raised in the appeal which is definitely a substantial question of law, was involved in the order appealed against, we would have set aside the order unhesitatingly on entertaining the appeal holding that the E.I.Court has no jurisdiction to quash a criminal prosecution initiated under the Act accepting the contention of the appellant.

1996 (1) KLT 781 = 1996 (1) KLJ 696 = ILR 1996 (3) Ker 160 DB E.S.I. Corporation v/s Radhas Printers

Entertaining an appeal Section 82 - No objection regarding jurisdiction of E.I. Court to entertain the application raised before it - Cannot be entertained in appeal - Mere fact that a question of law or a substantial question of law is raised in the appeal is not sufficient to hold that the appeal is maintainable under S. 82.

Since no question regarding the jurisdiction of the E.I. Court to deal with the application was raised before it and since the E.I Court has neither

considered the question or entered a finding thereon in the impugned order, the order under challenge in the appeal does not involve a substantial question of law regarding jurisdiction of the ESI Court as raised in the appeal. As such the appeal filed against that part of the order has to be rejected as not maintainable. *In this judgment* **Vol. 44 (1973) FJR 536 Ker 1 Parli Tile Works (P) Ltd v/s E.S.I. Court** *is relied on.*

1996 (1) KLT 781 = 1996 (1) KLJ 696 = ILR 1996 (3) Ker 160 DB E.S.I. Corporation v/s Radhas Printers

Instalment facility granted by the revenue authorities Section 85 B - Instalment facility granted by the revenue authorities for payment of the dues keeping the revenue recovery proceedings in abeyance will not suspend the liability of the employer to pay the contribution amount in accordance with the provisions of the Act.

Contribution ought to have been paid within the time stipulated in the Act. The statutory liability to pay damages for the delay caused in remitting the contribution amount finally assessed cannot be avoided by relying upon the fact that the revenue authorities including the minister for Revenue have granted time for payment of the amount due in exercise of the powers comferred under the Revenue Recovery Act cannot affect the scheme for levy and realisation of contribution under the Act which is a Central enactment.

1996 (1) KLT 243 = 1996 (1) KLJ 287 = ILR 1996 (2) Ker 181 DB Chandrasenan v/s Regional Director E.S.I. and another

Seasonal Factory Sections 1(4), 2(12), & 45(B) - 'Seasonal Factory' meaning of. The 'factory defined in sub-section (12) of Section 2 of the Act means any premises including the precincts thereof whereon twenty or more persons are employed or were employed for wages on any day of the preceeding twelve months, and in any part of which manufacturing process is being carried on with the aid of manpower or is ordinarily so carried on but does not include a mine subject to the operation of the Mines Act, 1952 or railway running shed.

1996 (1) KLT SN 29 P 22 DB Shyam Glass Works v/s State of U.P.

Persons employed for consultancy services are not employees Employees State Insurance Act, 1948 - Section 2 (9) - Persons employed for consultancy services will not come under the definition of employee.

Services of Krishna Menon and Sadasivan Pillai are sought for as consultants on contract basis. There is no finding that their employment is solely or mainly under the respondent establishment. In the light of the above finding of fact, no other view is possible than the one taken by the E.S.I Court that they would not come with-in the definition of 'employee' under the Act. Consultancy service rendered by two persons to the respondent would not make them employees of the establishment thus bringing it under the purview of the E.S.I.

Act. *In this judgment* **1978 Lab IC 585 Tata Oil Mills company Ltd, Ernakulam v/s The Employees State Insurance Corporation, Trichur** *is distinguished.*
ILR 1996 (2) Ker 243 = 1995 (2) KLT 767 = 1995 (2) KLJ 515 DB The Regional Director ESI Corporation v/s P.K. Mohammed (Pvt) Ltd

Permanent total disablement Section 2 (15 B) and 2 (15 A) - It is not necessary that the employment injury should render the employee totally unfit to do any work whatsoever for holding that he is suffering permanent total disablement.

It is enough that he was incapacitated from doing the work which he was capable of doing as the time of accident. It is not the look out of the Insurance Court to find out whether he can be trained to do some other work. If he can do the work which he was performing just before the accident in a reduced form the result is only permanent partial disablement. If he cannot do that work at all then the consequence is total permanent disablement. *In this judgment* **1966 (1) LLJ 826 Canara Public Conveyance Co. v/s Usman Khan, AIR 1976 SC 222 Paratap Narain Singh v/s Shrinivas** *and* **(1986) 58 FLR 158 Chotelal v/s Regional Director, E.S.I. Corporation** *are relied on and* **AIR 1936 All 493 U.D.Sugar Mills v/s Daulat Ram** *and* **AIR (37) 1950 Nag 201 General Manager, G.I.P. Railway v/s Shankar** *are referred to.*
1995 (1) KLT 482 = 1995 (2) ILR 552 = 1995 (1) KLJ 370 = 1995 (2) LLJ 235 DB Employees State Insurance Corporation v/s Gopi

Disablement Benefit Employees State Insurance Act, 1948 - Disablement Benefit - Workmen's compensation Act. 1923 - Section 2 (1) (1) - Dispute of suffering of permanent total disablement by the employee is a question of fact. Toddy tapper meeting with accident in course of employment incapable of doing toddy tapping after accident. Disability to the employee amounted to permanent total disablement. Workman is entitled to 100% disablement benefit instead of 40% as fixed by the Medical Board. Held, ESI Court did not commit any error of law in granting total disablement benefit to the workman
ILR 1994 (3) Ker 534 = 1995 (1) KLT SN 41 P 29 DB E.S.I. Corporation v/s P.K. Raju

Permanent Total Disablement Employees State Insurance Act, 1948 - Section 2 (15 B) - 'Permanent Total Disablement' meaning of –Employee incapable of doing the work which he was capable of doing immediately before accident – Entitled to full benefits. *In this judgment* **AIR 1976 SC222 Pratap Narain Singh Deo v/s. Shinivas Sabata and another** *and* **1984 KLT SN C 129 Kochu Velu v/s Joseph and others** *are relied on and* **1993 (2) KLT 187 E.S.I. Corporation v/s Pushkaran** *is disapproved.*
ILR 1994 (3) Ker 534 = 1995 (1) KLT SN 41 P 29 DB E.S.I. Corporation v/s P.K. Raju

Workman to prove that he is incapable of performing the work which he was capable of performing Section 2 (15B) - It is sufficient that the injured workman proves that he is incapable of performing the work which he was capable of performing at the time of accident to claim the benefit for permanent total disablement. *In this judgment* **1993 (2) KLT 187 E.S.I. Corporation v/s Pushkaran** *is not followed and* **AIR 1976 SC 222 Pratap Narain Singh Deo v/s Shrinivas Sabata and another** *and* **1984 KLT Case No 129 SN DB Kochu Velu v/s Joseph and others** *are relied on.*

1994 (2) KLT 139 = 1994 (2) KLJ 179 DB E.S.I. Corporation v/s Raju

Primary responsibility of payment of the contribution is on the principal employer Employee's State Insurance Act, 1948, Section 40 : Since the primary responsibility of payment of the contribution is on the principal employer, it was the duty of the respondent company to get the necessary details of the workmen employed by the contractor at the commencement of the contract The respondent company had engaged the contractor to execute the work. Since the respondent company had failed to pay the contribution, the appellant Corporation was entitled to demand the contribution although both the contribution period and the corresponding benefit period had expired.

1993 (2) KLT 714 SC Employees' State Insurance Corporation v/s Harrisons Malayalam (P) Ltd

Validity of amendment Employees State Insurance Act, 1948 - Section 95 - Amendment to Rules 50, 51 and 54 of the Employees State Insurance (Central) Rule enhancing the wage ceiling for coverage of employees and reduction of employers contribution is legal and valid. *In this judgment* **AIR 1985 SC 791 M/s Gasket Radiators Pvt Ltd v/s Employees State Insurance Corporation** *and* **AIR 1964 SC 1135 State of U.P v/s Kartar Singh** *are relied on.*

ILR 1993 (2) Ker 345 Employees Congress, FACT Ltd and others v/s Union of India and others

Permanent disablement Employees State Insurance Act, 1948 - Section 2 (15 B) - To conclude of permanent disablement, Court will have to enter a specifie finding that, the injury suffered by the employee disabled him to do any work, including that which he was doing at the time of accident. *In this judgment* **1988 Lab IC 320 MP Munshigiri v/s E.S.I. Corporation, AIR 1936 All 493 Upper Doab Sugar Mills Ltd v/s Daulat Ram, AIR (37) 1950 Nag 201 General Manager of the GIP Rly Bombay v/s Shanker** *and* **AIR 1931 Lah 319 All India Construction Co. Ltd v/s Munshi Ram** *are relied on.*

1993 (3) ILR 773 = 1993 (2) KLT 187 = 1994 (1) LLJ 227 DB Regional Director, E.S.I. Corporation, Trichur v/s K.K. Pushkaran

Court will have to determine the extent of loss of earning capacity of the insured person Employee's State Insurance Act, 1948, Sections 54 A (2) (ii)

& 54 - Under Section 54 A of the Act, the Court will have to determine the extent of loss of earning capacity of the insured person. The refusal of the employer to give him any suitable work though the disablement is only 20% can only be one of the factors to be taken into account. The burden of establishing that the finding of the Medical Board was not proper is on the employee. The court which is not technically equipped to assess the quantum of disablement has very little scope to interfere with the finding of the Medical Board.

1993 (3) ILR 773 = 1993 (2) KLT 187 = 1994 (1) LLJ 227 DB Regional Director, E.S.I. Corporation, Trichur v/s K.K. Pushkaran

Section contemplates reduction in earning capacity, not reduction of actual earning Employee's State Insurance Act, 1948, Section 2 (15A) - Contemplates reduction in earning capacity, not reduction of actual earning. Words in Section refer to employee's capability of generally doing any job to earn his livelihood.

1993 (3) ILR 773 = 1993 (2) KLT 187 = 1994 (1) LLJ 227 DB Regional Director, E.S.I. Corporation, Trichur v/s K.K. Pushkaran

Permanent partial disablement or permanent total disablement Employee's State Insurance Act, 1948, Sections 2 (15A) and (15B) - Whether employee has suffered permanent partial disablement or permanent total disablement is a question of fact to be proved before the Court if injury is not the one specified in Second Schedule. If proved, the Court has to examine regarding reduction in earning capacity in every employment, not merely that he was engaged at the time of accident.

1993 (3) ILR 773 = 1993 (2) KLT 187 = 1994 (1) LLT 227 DB Regional Director, E.S.I. Corporation, Trichur v/s K.K. Pushkaran

Wages paid to the employee for certain holidays Employees State Insurance Act, 1948 - Section 2 (22) - "Wages" – Does not include wages paid to the employee for certain holidays under the Kerala Industrial Establishment (National & Festival) Holidays Act for the purpose of contribution under the Act.

Under the Holiday Act, no employee shall be compelled to work on a day which is declared a holiday under the Holidays Act. If the employee is required to work on such a holiday, he is to be paid twice the wages and he must be granted another substituted holiday on any other day. It cannot be said that the wages paid for that day is a recompense for the work done. It is only a benefit granted to the employee and not remuneration for work done. The wages paid for the holidays under the Holidays Act will not form part of wages as defined in Section 2(22) of the Act. *In this judgment* **AIR 1991 SC 314 Assistant Regional Director Nagpur v/s Model Mills Nagpur Ltd** *is followed,* **1975 Lab IC 384 E.S.I Corporation v/s Model Mills, AIR 1962 SC 505 Accountant General v/s N. Bakshi** *and* **AIR 1965 Bom 172 Bombay Gas C Ltd v/s R.N. Kulkarni**

are relied on, **AIR 1956 Bom 336 Nutan Mills v/s E.S.I. Corporation, AIR 1963 SC 413 M/s Braithwaite and Co. (India) Ltd v/s Employees State Insurance Corporation, AIR 1986 SC 237 Regional Director ESI Corporation v/s Bata Shoe Co. (P) Ltd, 1979 Lab IC 527 Birla Cotton Spinning and Weaving Mills v/s E.S.I. Corporation, New Delhi, AIR 1984 SC 1680 M/s Harihar Polyfibres v/s Regional Director, E.S.I. Corporation, 1980 Lab IC 431 KCEP Ltd v/s Deputy Regional Director ESIC Bangalore** *and* **AIR 1978 AP 18 ESI Corporation v/s A.P. Paper Mills** *are distinguished and* **1991 (1) KLT 847 E.S.I Corporation v/s Raj Cashew Company** *is overruled.*

1993 (1) KLT 5 = 1993 (1) ILR 786 = 1993 (1) KLJ 420 = 1993 LLJ 596 DB ESI Corporation v/s Malabar Cashew Nut and Allied Products

Demand for contribution can be enforced even after closing down of the business Employee's State Insurance Act, 1948, Section 40 - Demand for contribution can be enforced even after closing down of the business. The employer cannot escape the liability. Under Section 40, the primary liability is to pay not only the employer's contribution but also the employees contribution. Therefore, he cannot be heard to contend that since he had not deducted the employee's contribution on the wages of the employees he could not be made liable for the same.

1993 (1) KLT 281 SC ESI Corporation v/s Hotel Kalpaka International

Laying the rule after it is made, before each House of Parliament Employee's State Insurance Act, 1948, Section 95 - Requirement for laying the rule after it is made, before each House of Parliament is not condition precedent to be complied with before the Rule is brought into force.

1992 (2) KLT 910 = 1993 (2) KLJ 3 = 1993 (1) LLJ 580 Tata employees Union v/s Union of India

Court at Trichur has jurisdiction to try the case launched against employers Employee's State Insurance Act, 1948, Section 85 - Prosecution launched against employers before C.J.M. Court at Trichur which has the Regional Officer of the Corporation where returns under the Act must reach. Court at Trichur has jurisdiction to try the case.

1992 (2) KLT 26 Renuka v/s ESI Corporation

Subsistence allowance paid to an employee Employees State Insurance Act, 1948 - Section 2 (22) - Wages - Subsistence allowance paid to an employee under suspension does not come within the definition of 'wages'. *In this judgment* **UAC Nag 1975 Lab IC 84 The Assistant Regional Director in-charge, ESI Corporation Nagpur v/s The Model Mills, Nagpur Ltd, AIR 1958 SC 518 Balasubramanya Rajaram v/s B.C. Patel, AIR 1991 SC 314 Assistant Regional Director v/s Model Mills Nagpur Ltd, 1985 (1) LLJ 175 Employees State Insurance Corporation v/s Management of Kiroloskar** *and*

AIR 1974 SC 1281 H.L. Mehra v/s Union of India and others *are referred to.*
ILR 1991 (3) Ker 940 DB Regional Director v/s Leela Karunakaran

Appeal lies only on substantial questions of law Employees State Insurance Act, 1948 - Section 82 - Appeal from the decision of the Insurance Court lies only on substantial questions of law.
ILR 1991 (3) Ker 619 DB Regional Director, E.S.I Corporation Trichur v/s Cheerans Auto Agencies

Management is bound to deduct employee's share of contribution from their wages Temporary or casual employees - Management is bound to deduct employee's share of contribution from their wages and along with their share pay to the corporation. The Act imposes a duty on the employer to deduct employee's share from the wages paid to the employees and his own contribution and remit the same to the Corporation. The fact that a temporary employee had ceased to be in employment and his where about are not known or his identity is not known cannot have any relevance in deciding the question about the liability of the employer to pay contribution to the Corporation. *In this judgment* **1991 (1) KLT 554 M/s High Range Brewerics Ltd E.S.I. Corporation v/s Premier Timber Supplies** *is relied on.*
ILR 1991 (3) Ker 545 DB ESI Corporation v/s M/s High Range Breweries Ltd

The wages in Payment of Subsistence Allowance Employee's State Insurance Act, 1948, Section 2 (22) - Wages - The wages in Payment of Subsistence Allowance Act is more or less identical with the definition of wages in Section 2 (22) of the Employee's State Insurance Act. It is difficult to say that subsistence allowance paid is an amount paid for services rendered and so it is remuneration. Subsistence allowance is not paid for any services rendered. Whatever be the position, for good reasons, which are legally sustainable, the employee is refrained from rendering any service to the employer. In such circumstances, it is not possible to say that he is rendering service and so he is receiving wages within the meaning of Section 2 (22) of the Employees' State Insurance Act.
1993 (1) LLJ 870 = 1991 (2) KLT 708 DB = 1991 (1) ILR 940 DB Regional Director v/s Leela Karunakaran

Meals allowance paid to employees will not include wages Employees State Insurance Act, 1948 - Section 2 (22) - "Wages" –Definition of - Meals allowance paid to employees will not include in the expression. *In this judgment* **AIR 1984 SC 1680 M/s Harihar Polyfibnes v/s Regional Director, Employees State Insurance Corporation** *is relied on,* **1987 Lab IC 570 E.S.I Corporation Chandigarh v/s M/s Gedore Tolls India (P) Ltd** *is referred to and* **1976 (11) LLJ 238 Carborandum Universal Ltd v/s Employees State Insurance Corporation** *and* **1976 (2) LLJ 238 Mahalikshmi Glassworks Private Ltd v/s Employees State Insurance Corporation** *are dissented from.*

ILR 1992 (1) Ker 60 = 1991 (2) KLT 484 = 1991 (2) KLJ 596 DB Malabar Fruit Products v/s Regional Director, E.S.I. Corporation and another

Workers for construction of building for the principal employer are to be treated as workers of the principal employer Employees State Insurance Act, 1948 - Sections 2 (9) (11) and (13) - Workers employed by the contractor for construction of building for the principal employer for their factory are to be treated as workers of the principal employer and liability is on the principal employer to pay contribution. *In this judgment* **AIR 1986 SC 1686 Regional Director, ESI Corporation v/s S.I. Flour Mills (P) Ltd** *and* **AIR 1974 SC 759 P.M. Lakshmanamurthy v/s Employee's State Insurance Corporation** *are relied on and* **1975 (1) LLJ 388 E.S.I Corporation v/s Sakthi Textiles (P) Ltd** *is referred to.*

ILR 1991 (2) Ker 352 DB E.S.I Corporation v/s Foam Mattings (India) Ltd

Correctness of determination of disability Employee's State Insurance Act, 1948, Section 51 A - Employees' Insurance court has power to decide correctness of determination of disability by medical Board.

1991 (3) ILR 508 = 1991 (2) KLT 284 = 1992 (1) LLJ 359 DB Vasudevan Nair v/s Regional Director, ESI Corporation

Actual disability of the claimant Employees State Insurance Act, 1948 - Section 54 A - Powers of the Insurance Court to assess the actual disability of the claimant.

1991 (3) ILR 508 = 1991 (2) KLT 284 = 1992 (1) LLJ 359 DB Vasudevan Nair v/s Regional Director, ESI Corporation

Daily batta or allowance while on travelling duty Employee's State Insurance Act, 1948, Section 2 (22) - Sums payable to running staff as daily batta or allowance while on travelling duty has to be excluded from the definition of 'Wages' as the same falls in exception under Section 2 (22) (c) of the Act.

1991 (2) KLJ 206 = 1991 (2) KLT 138 DB Regional Director v/s Vindod

Employee engaged in repair and maintenance of building Employee's State Insurance Act, 1948, Sections 2 (9) - Employee engaged in repair and maintenance of building where establishments located are employees within the meaning of Section 2(9) and payment made to them are wages within Section 2(22) of the Act.

1991 (2) KLJ 206 = 1991 (2) KLT 138 DB Regional Director v/s Vinod

Appeal lies to High Court Employee's State Insurance Act, 1948, Section 82 - Appeal lies to High Court from an order of Employees Insurance Court only if it involves a substantial question of law.

1991 (2) KLT SN 32 P 22 = 1991 (3) ILR 619 = 1992 (1) LLJ 704 DB ESI Corporation v/s Cheerans Auto Agencies

Payment of wages for a holiday Employee's State Insurance Act, 1948, Section 2 (22) - The enjoyment of a holiday in terms of a valid statute by an employee and the payment of wages for that holiday becomes part of his conditions of service and it cannot be said that what he is paid is not wages since he has not rendered service on the particular day. The wages paid for holidays by virtue of the implied terms of the contract as defined under the Act.

1991 (1) KLT 847 = 1992 (1) LLJ 206 = ILR 1991 (3) Ker 549 DB ESI Corporation v/s Raj Cashew Company

Terms of contract entered into between the employer and the employee Employee's State Insurance Act, 1948, Section 2 (22) - There may be express terms in the contract entered into between the employer and the employee at the commencement of the contract. Even at that time several of the terms may be implied. While wages are remuneration or recompense for services rendered, they need not necessarily be in every case for services rendered on the particular day. When an employee is under the terms of a valid statute entitled to be allowed a holiday and to be paid wages for that holiday, that provision in the statute become part of his conditions of service and it cannot be said that what he is paid is not wages since he has not rendered service on the particular day. He is entitled to that right by virtue of the fact that he has contracted to render services and has rendered services on other days. If the employee is entitled to a holiday and entitled to be paid wages for the holiday in fulfillment of the terms of contract, express or implied, wages so paid must be regarded as wages as defined in Section 2(22) of the Act. *In this judgment* **1974 (4) SCC 365 B.M.Lakshmanamurthy v/s Employee's State Insurance Corporation, AIR 1984 SC 1680 M/s Harihar Polyfibers v/s Regional Director ESI Corporation** *and* **AIR 1955 SC 518 Divisional Engineer G I P Railway v/s Mahadeo Raghoo** *are relied on and* **AIR 1962 SC 505 Accountant General v/s N.Bakshi** *and* **1974 (4) SCC 396 H.I. Mehra v/s Union of India and others** *are referred to.*

1991 (1) KLT 847 = 1992 (1) LLJ 206 = ILR 1991 (3) Ker 549 DB Regional Director, ESI Corporation v/s Raj Cashew Company

Employment injury Employee's State Insurance Act, 1948, Section 2 (8) - Employee attended factory, signed the layoff register and was returning home. Accident occur while crossing road in front of factory. Injury sustained by employee in the accident is an employment injury. Entitled to compensation.

1991 (1) KLT 784 = 1991 ACJ 861 = 1992 (1) LLJ 831 DB Sathyabhama v/s E.S.I. Corporation

Charges to be excluded from computing contribution Employee's State Insurance Act, 1948, Section 2 (22) - Amount paid to Attimari Employees, lorry hire charges and elephant hire charges are to be excluded from the amount reckoned for computing contribution.

1991 (1) KLT 554 = 1991 (2) KLJ 368 E.S.I. Corporation v/s Premier Timber Supplies

Temporary and casual employees who are unidentifiable Employee's State Insurance Act, 1948, Section 38 and 2 (12) - Temporary and casual employees who are unidentifiable are covered under Act. Employer has primary liability to pay contribution regarding wages paid to them. Mere fact that no documents were made from wages does not absolve principal employer from his liability to pay contribution.

1991 (1) KLT 554 = 1991 (2) KLJ 368 E.S.I. Corporation v/s Premier Timber Supplies

If there was failure on the first day after the expiry of the period, there would be again failure on the next day and also on the succeeding days until the payment is made Employee's State Insurance Act, 1948, Section 85 - Failure to pay the contribution does not end with the expiry of the last day of the period specified in Regulation 31. The failure has a recurring character. The failure does not stop with the expiry of one single day, unless the contribution is paid in the meanwhile. If there was failure on the first day after the expiry of the period, there would be again failure on the next day and also on the succeeding days until the payment is made. If the first day's failure to pay contribution would amount to an offence, he continues to commit that offence on subsequent days also as long as he continues to fail to pay contribution. In this view, the offence contemplated in Section 85 (a) is a continuing offence. *In this judgment* **AIR 1984 SC 1688 Bhagirath Kanoria v/s State of MP, 1978 Crl LJ 1392 Seetha v/s E.S.I. Corporation, 1983 Lab IC 1066 E.S.I Corporation v/s M/s Ajantha Transport, AIR 1973 SC 903 The State of Bihar v/s Deokaran** *and* **1932 KB 108 Best v/s Butter** *are relied on.*

ILR 1990 (3) Ker 928 Velayudhan v/s E.S.I.Corporation

The liability to pay the entire contribution is that of the employer Employee's State Insurance Act, 1948, Section 38 - The liability to pay the entire contribution is that of the employer. The temporary employees are not covered society on the ground that the contributions have not been paid and the same is not a relevant ground to deny the right of the Corporation to demand the contribution under Section 39 of the Act. The circumstances that it was not detected at the appropriate time by the Corporation will not absolve the employer from its liability to pay the contribution.

1990 (2) KLT 713 = 1991 (1) ILR 125 DB Regional Director, ESI Corporation v/s Fashion Fabrics

Liability to pay contribution for all the employees Employee's State Insurance Act, 1948, Section 39 and (40) - Liability to pay contribution for all the employees. Section 40 (1) of the Act says that the principal employer shall pay in respect of every employee, whether directly employed by him or though an immediate employer, both the employer's contribution and the employee's

contribution. Section 40(2) provides that the employers has an entitlement to recover from the employee the employee's contribution by deduction from his wages. So the primary liability to pay contribution envisaged under Section 39 is that of the employer.

1990 (2) KLT 713 = 1991 (1) ILR 125 DB ESI Corporation v/s M/s Fashion Fabrics

The workers engaged by contractor come within the definition of employee Employee's State Insurance Act, 1948, Sections 2 (9) (13) and 40 - Extension work of new spinning shed was undertaken and awarded to contractor. The workers engaged by contractor come within the definition of employee and the Management is liable to pay contribution to such employees.

1990 (1) KLT 540 = 1990 (1) KLJ 664 = 1990 (2) LLJ 464 Regional Director, ESI Corporation v/s Vijayamohini Mills

Each branch having less than 20 employees – Branch will not be covered by the Act Employees State Insurance Act, 1948 - Sections 1 and 2 - Appellant Company having headquarters at Madras and number of branches – Branches are independent and employees of each branch work under the control and supervision of that branch – Each branch having less than 20 employees – Branch will not be covered by the Act. *In this judgment* **1980 (11) LLJ 232 E.S.I. Corporation v/s New India Maritime Agencies** *is relied on and* **AIR 1978 SC 356 Hyderabad Asbestoes v/s Employees Insurance Court** *and* **1983 (63) FJR 88 Spencer and Co. Ltd v/s E.S.I. Corporation** *are distinguished*

ILR 1989 (2) Ker 360 DB Spencer and Company Limited, Ernakulam v/s E.S.I. Corporation Trichur

Society engaged in manufacturing process using power and employing more than twenty workers for wages Employees State Insurance Act, 1948 - Sections 1 (4), 2 (9) and 2 (22) - Society engaged in manufacturing process using power and employing more than twenty workers for wages – Society is covered by the provisions of the Act. *In this judgment* **1980 Lab IC 1301 Regional Director ESI Corporation v/s TT I Co-operative Society, Calicut, 1964 KLJ 1 Kerala State Handloom Ltd v/s State of Kerala, AIR 1970 SC 564 R.C. Cooper v/s Union of India** *and* **1982 (2) MLJ 269 Pondicherry State Weavers Co-operative Society v/s ESI Corporation** *are relied on and* **AIR 1964 Mad 103 E.S.I. S.A. Corporation Motor Transport Society v/s Syed Batcha** *and* **1986 Lab IC 370 Corporation Hyderabad v/s M/s Laxmi PLW Co-operative and Sales Society Ltd** *are dissented from and* **1985 Lab IC 544 Regional Director ESI Corporation Trichur v/s R.M. Industries** *is distinguished.*

ILR 1989 (2) Ker 231 = 1989 (1) KLJ 324 DB Kunnathunad – Chalakudy Sankethika Co-operative Society v/s E.S.I. Corporation

If members work for wages for the Society, they are its employees

Employee's State Insurance Act, 1948, Sections 2(9) and (12) - The Society registered under the Act is a body corporate with perpetual succession and a common seal with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purpose for which it is constituted. It is a legal entity distinct from its share holders and members. If members work for wages for the Society, they are its employees within the meaning of that expression in the Act.

1989 (1) KLJ 324 = 1989 (2) ILR 231 = 1989 (1) KLT 506 DB The Kunnathunadu Chalakudi Sankethika Co-operative Society v/s Regional Director, ESI Corporation

It is not obligatory on the Corporation to levy or recover damages Employee's State Insurance Act, 1948, Section 85 B - Even where the employer fails to pay the amounts due in respect of any contribution payable under the Act, it is not obligatory on the Corporation to levy or recover damages. The power to levy damages is discretionary. The power to levy and recover damages provided in Section 85 B of the Act is in the nature of quasipenal provision. Since the opportunity that is provided before recovering the damages should be effective and meaningful, the authority empowered to levy damages should have the discretion either to levy the damages or to dispense with the levy of the damages. *In this judgment* **1980 Lab IC 901 C.L. Anand v/s Regional Director** *is relied on.*

ILR 1988 (2) Ker 595 = 1988 (2) KLT 280 DB Regional Director, E.S.I. Corporation, Trichur v/s M/s Shakthi Textiles Quilon

Advertising concern functioning as a consultation and advice concern Employees State Insurance Act, 1948 - Sections 1 (5) - Notification, dated 18th September 1974 – 'Shop' meaning of – Advertising concern functioning as a consultation and advice concern will not be a 'shop' within the meaning of the notification. *In this judgment* **1978 KLT 686 George Mathew v/s E.S.I Corporation, 1987 (1) LLJ Bom 9 Dattaram Advertising Pvt Ltd v/s Regional Director, ESI Corporation, AIR 1987 SC 1166 M/s Hindu Jea Band v/s Regional Director ESI Corporation, ILR 1978 (2) Ker 1 Beeyems construction Co. v/s Government of Kerala, 1979 KLT 563 Brook Bond India Ltd v/s E.S.I Corporation, 1979 KLT 633 Darasak Ltd v/s ESI Corporation** *and* **1987 (1) LLJ 9 1988 (1) LLJ 413 Dattaram Advertising Ltd v/s Regional Manager ESI Corporation** *are referred to.*

ILR 1989 (1) Ker 521 = 1988 (2) KLT 178 DB T.C. Kuriakose v/s The Regional Director ESI Corporation

Power to levy damages is discretionary Employee's State Insurance Act, 1948, Section 85 B - Power to levy damages discretionary. In the nature of quasi penal provision, order is in a quasi. Judicial proceeding. Corporation not to act mechanically without considering facts and circumstance of each ease.

Insurance Court can evaluate entire matter and dispense with recovery or delete or reduce quantum of damages or grant such other relief as warranted.

1988 (2) KLT SN 6 P 4 DB Regional Director, ESI Corporation v/s Sakthi Tiles

Two Establishments run in the same premises by the same person Employee's State Insurance Act, 1948, Sections. 2 (9) and 13 - Two Establishments run in the same premises by the same person. One establishment carrying on process which is incidental or preliminary to other establishment. Entire establishment to be covered under the Act.

1988 (1) KLT 747 = 1988 (2) ILR 447 = 1990 (1) LLJ 348 DB Regional Director, ESI Corporation v/s Suresh Trading Company

Employee need not be directly employed Employees State Insurance Act, 1948 - Section 2 (9) - 'Employee' – Need not be directly employed – Casual employee engaged by an intermediate employer, in connection with some work, which was incidental or preliminary to the work of the establishment or connected with the work of the establishment is a workman. *In this judgment* **1980 KLT 587 Aluminium Industries v/s E.S.I. Corporation, 1987 (1) KLT 79 Regional Director E.S.I Corporation v/s Kerala Kaumudi, 1978 (4) SCC 204 Royal Talkies v/s E.S.I Corporation, 1985 Lab IC 396 Shri Narakesari Prakashan Ltd v/s E.S.I. Corporation** *and* **1980 (3) SCC 328 Regional Director E.S.I. Corporation v/s South India Flour Mills** *are relied on.*

ILR 1988 (2) Ker 447 = 1988 (1) KLT 747 = 1990 (1) LLJ 348 DB Regional Director, E.S.I. Corporation v/s Suresh Trading Company

Recovering the amount as an arrear of land revenue Employee's State Insurance Act, 1948, Section 54 A - Corporation can proceed to recover the amount as an arrear of land revenue. Adjudication of claim not a condition precedent for recovery. The Corporation has been established for the administration of the scheme of Employees State Insurance. The Corporation has the statutory authority to exercise all those powers which are necessary for the proper and effective administration of the scheme of insurance. The Corporation is therefore the primary authority to determine the various questions which arise for decision in the course of its functioning under the Act. On such decisions being rendered in relation to these matters covered by Sections 45 A, 68 (1), 70(1) or 858 (1), the amounts recoverable may be recovered as an arrear of land revenue. Sections 75(2) does not compel the Corporation to move the court whenever there is a claim which they have to enforce. Section 75 is only an enabling provision for either the Corporation or the person affected to have the question, dispute or claim adjudicated. It is not necessary that every claim should be recovered only through the court, after obtaining an order there from regarding liability. *In this judgment* **1982 Labour and Industrial Cases 140 Regional Director E.S.I**

Corporation v/s Marikkar Engineers Ltd, AIR 1980 Karn 86 Regional Director E.S.I. Corporation v/s Fibre Bangalore (P) Ltd, 1964 (1) LLJ 213 K.C.S. Dhanushkodi Nadar and Sons v/s E.S.I Corporation, 1972 (2) LLJ 338 M.S. Dhananjayan v/s Regional Director, State Insurance Corporation *and* **1977 Labour and Industrial Cases 1482 Shriram Bearings Ltd v/s Employees State Insurance Corporation** *are referred to.*

1988 (1) ILR 44 = 1988 (1) LLJ 80 = 1987 (2) KLT 196 M.O. Anthonikutty v/s The ESI Corporation and others

The power to recover damages is quasi criminal Employee's State Insurance Act, 1948, Section 85 B - The power to recover damages is quasi criminal in character. The damages recoverable under Section 85 B of the Act is not compensatory, but penal and deterrent in character, and that is the reason why it is specifically provided that such damages may be recovered only after the employer is given a reasonable opportunity of being heard. Therefore, the proceedings are quasi-judicial in character. The authority to recover damages is vested in the Corporation. The Director General of the Corporation is a statutory functionary appointed under the Act. He has to exercise many statutory powers. Rule 160 (2) of the Employees State Insurance Rules, 1950 enables delegation of his powers subject to certain conditions to any person subordinate to him. Section 94 A of the Act enabling delegation of powers to any officer or authority subordinate to the corporation is valid. A delegation need not be in favour of one officer alone. It may as well be in favour of all officers. Any Officer of the Corporation may as well mean every officer of the corporation.Delegation of power to the Regional Director by the Director General is valid- May not amount to sub-delegation. *In this judgment* **AIR 1967 SC 295 Barium Chemicals Ltd v/s Company Law Board, AIR 1968 SC 822 Mangala Chunilal v/s Manilal Magan Lal, AIR 1965 SC 1486 Bombay Municipal Corporation v/s Dhondu Narain Chowdhary, 1981 (59) FJR 743 E.S.I. Corporation v/s Shob Engineers** *and* **1981 (48) FJR 402 E.S.I. Corporation v/s Dhandas Engineers (P) Ltd** *are referred to.*

1987 (1) KLT 825 = 1987 (1) KLJ 793 = 1987 (1) KLN 301 DB Regional Director, ESI Corporation v/s P.S. Bhaskaran and another

It is difficult to assume that Parliament intended oppression to operate on the employees Employee's State Insurance Act, 1948, Section 53 and 61 - The scheme of the enactment on a close analysis, takes care of only such liabilities as are geared to the employment injury. They do not purport to deal with the tortious liability of an employer. The enactment is not one intended to relieve the employer of the alleged hardship arising out of a multiplicity of liabilities, which is simultaneously a tort under common law and a violation of a statutory provision. Sections 53 and 67 of the Employees' State Insurance Act may, at first blush,

appear to bar the victim of the tragedy from claiming the more advantageous benefits under the Motor Vehicles Act, 1939. That would, doubtless, operate to the disadvantage of the employee. He loses the benefit of a higher compensation only for the reason that he is an employee. It is difficult to assume that Parliament intended such an oppression to operate on the employees, when it enacted the Employees State Insurance Act. *In this judgment* **AIR 1968 Ori 213 Gobardhan Das v/s Raghunandan Das, 1937 (3) All ER 359 Rose v/s Ford, 1951 (2) Lloyd's Rep 125 Meleod v/s Bauer** *and* **1977 (2) SCC 256 Chairman Board of Mining Examination v/s Ramjee** *are referred to,* **AIR 1963 SC 1332 Hindustan Times, Ltd v/s Their Workmen, 1965 11 LLJ 149 Technological Institute of Textiles v/s Its Workmen, AIR 1976 SC 2091Alembic Glass Industries v/s Workman** *and* **1979 Lab IC 936 Coorla Spg And Wrg Co. Bombay v/s Trimbak** *are relied on,* **AIR 1982 Mad 371 National Insurance Co. Ltd v/s P. Saraswathi Mohan, AIR 1982 Mad 223 Mangalamma v/s Express Newspapers Ltd** *and* **AIR 1972 Mys 255 Hindustan Aeronautics v/s P.V. Perumal** *are dissented from and* **1985 KLT 104 = ILR 1985 (2) Ker 320 Abal Fisheries v/s Commissioner for Workmen's Compensation** *is overruled.*

ILR 1987 (1) Ker 505 = AIR 1987 Ker 103 = 1987 (1) KLT 89 DB P. Asokan v/s The Western India Plywoods Limited, Cannanore

Employees engaged in the work of the canteen run by contractor Employees State Insurance Act, 1948 - Sections 2 (9) and (13) - Employees engaged in the work of the canteen run by contractor but supervised by the staff in the premises of the respondents establishment are "Employees" under the Act. *In this judgment* **AIR 1978 SC 1478 Royal Talkies, Hyerabad v/s E.S.I. Corporation, AIR 1972 SC 1598 Ahmedabad Mfg. & Calico Pig. Co. v/s Ramtahel, AIR 1973 SC 2297 Saraspur Mills Co. v/s Ramanlal, 1975 KLT 714 E.S.I. Corporation v/s United Electrical Industries** *and* **AIR 1064 AP 291 Sirsilk Ltd v/s Regional Director, E.S.I Corporation** *are relied on.*

ILR 1987 (1) Ker 392 = 1987 (1) KLT 79 DB E.S.I. Corporation v/s M/s Kerala Kaumudi

Employment necessarily involves a contract of service Employee's State Insurance Act, 1948, Section 2 (9) - The principle is that employment necessarily involves a contract of service, pursuant to which a person enters into service of an employer in connection with some integral part of the operations carried on by the establishment. Such employment may be for short periods, and may be paid for daily. A person engaged casually in connection with processes which are not integral part of or incidental or preliminary to or connected with the operations of the establishment, though such engagement may be for longer periods, other than casual employment on a contract of service, such casual employment on a contract of service, such casual workmen may not be an

employee as defined in the Act. *In this judgment* **1970 (2) LLJ 233 Gnanambikai Mills Ltd v/s Employee's State Insurance Corporation, 1974 (2) LLJ 530 E.S.I. Corporation v/s Gnanambikai Mills Ltd, 1975 KLT 714 E.S.I. Corporation v/s United Electrical Industries, 1975 KLT 670 President, K.P. Co-operative Society v/s E.S.I. Corporation, 1979 KLT 897 E.S.I. Corporation v/s Ayurvedic I.C.P.** *and* **1980 KLT 476 E.S.I. Corporation v/s Punnoose** *are relied on and* **1979 Lab IC 1335 E.S.I Corporation Bangalore v/s Suvarna Saw Mills** *and* **1986 (3) SCC 238 Regional Director, E.S.I. Corporation v/s South India Flour Mills** *are referred to.*

ILR 1987 (1) Ker 377 DB Regional Director E.S.I. Corporation v/s P.R. Naraharari Rao

Only contribution paid by the principal employer can be recovered from the immediate employers Employees State Insurance Act, 1948 - Sections 41 and 42 - Only contribution paid by the principal employer under Section 42 (2) can be recovered from the immediate employers.

ILR 1985 (1) Ker 468 DB Hindustan Insecticides Ltd v/s T.M. Jaleel and others

A dependent shall not be entitled to receive or recover any compensation from the employer under the Workmen's Compensation Act Employee's State Insurance Act, 1948, Sections 53 and 61 - Applicability of Workmen's Compensation Act - Under Section 53 of the Act, a dependent shall not be entitled to receive or recover any compensation from the employer under the Workmen's Compensation Act, in respect of an employment injury sustained by an insured person. The bar is unconditional, it does not depend on actual receipt benefit by the dependant.

1985 (1) ACJ 349 = 1985 (1) KLN 93 = 1985 (2) ILR 348 = 1985 KLT 104 DB Abad Fisheries v/s The Commissioner for Workmen's Compensation and others

Compensation under the Workmen's Compensation Act Employees State Insurance Act, 1948 - Sections 53 and 61 - Insured person under the scheme cannot claim compensation under the Workmen's Compensation Act. *In this judgment* **41 FJR 667 Lakshmi Oil Mills v/s Thakur Dass** *is referred to.*

ILR 1985 (2) Ker 348 = 1985 KLT 104 DB Abad Fisheries v/s The Commissioner for Workmen's Compensation and others

Peeling or grading work Employees State Insurance Act, 1948 - Section 2 (9) (11) - Peeling or grading work - Persons not working in the premises of the factory-Firm having no supervision in the work - No employer - employee relationship between the firm and the "peeling" workers. *In this judgment* **1882 (21) ChD 309 Yorkshire Railway Wagon Company v/s Mechure, 1855 (23) LJ Ch 82 Edwards v/s Hall, AIR 1968 (1) SC 503 = 1968**

(1) SCR 306 Ghatge and Patil Concern's Employee's Union v/s Ghatge and Patil (Transports) Private Ltd *and* **AIR 1968 SC 49 C.I.T. v/s Raman and Co.** *are referred to and* **AIR 1978 SC 1410 Hussain Bhai v/s Alath Factory Thoshilali Union, AIR 1978 SC 1478 Royal Talkies v/s E.S.I. Corporation, AIR 1977 Ker 96 FB = 1977 KLT 172 Abraham v/s State of Kerala** *and* **AIR 1983 Ker 250 Sethulakshmi Bai v/s State** *are distinguished.*

ILR 1985 (1) Ker 239 DB Regional Director, E.S.I. Corporation, Trichur v/s M/s Pooppally Foods

Casual workers on daily wages given work regularly Employees State Insurance Act, 1948 - Section 2 (9) - Casual workers on daily wages given work regularly in the establishment are covered under the Act. The question of coverage has to be decided on the basis of number of employees actually working in the establishment and not on the basis of wage register alone. *In this judgment* **1946 (115) LJR 41 Short v/s Henderson Ltd, 1938 SC 121, 133 Park v/s Wilsons & Clyde Coal Co. Ltd, 1951 (1) KB 731 Gould v/s Ministor of National Insurance, 1963 (1) WLR 441 Amalgamated Engineering Union v/s Minister of Pensions and National Insurance, 1951 (2) KB 343 Cassidy v/s Ministry of Health, 1910 (1) KB 543 Simmons v/s Health laundry Co., 1960 Lab IC 362 Kandaswamy W.F. & Co. v/s Regional Director, 1957 SC 264 D.C. Works Ltd v/s State of Saurashtra, 1977 (1) LLJ 54 A.P.S.E. Board v/s E.S.I. Corporation, 1977 (2) LLJ 404 Regional Director E.S.I. Corporation v/s D.C. Mills, MFA No. 139 of 1977 E.S.I. Corporation v/s The Ayurvedic Industrial Co-operative Pharmacy, Puthur** *and* **1978 SC 1478 Royal Talkies v/s E.S.I. Corporation** *are followed.*

ILR 1980 (2) Ker 410 = 1980 KLN 257 = 1980 KLT 476 DB Employees State Insurance Corporation v/s M.C. Punnoose

Order for recovery of contribution in respect of a period beyond three years Employees State Insurance Act, 1948 - Section 45 A - Order for Recovery of contribution in respect of a period beyond three years-The law of limitation will have no scope for operation in respect of any claims arising under Section 45 A of the Act.

ILR 1980 (1) Ker 591 = 1980 (1) LLJ 166 = 1980 KLT 425 DB Regional Director, E.S.I. Corporation v/s T. Ramadas Reddiar

Different branches of an establishment having Head Office in another State Employees State Insurance Act, 1948 - Section 38 - Different branches of an establishment having Head Office in another State – To be treated as one unit for the purpose of coverage if the branch offices are carrying on the work of the Central Establishment. *In this judgment* **ILR 1974 (2) Ker 536 Regional Director Employees State Insurance Corporation, Trichur v/s Ruby Rubber Works Ltd** *is relied on.*

ILR 1980 (2) Ker 1 = 1980 KLT 288 = 1980 KLN 135 DB The Regional Director E.S.I Trichur v/s The Manager, New India Maritime Agencies, Cochin

Employees of a Co-operative Society who are also its share holders can be brought within the coverage of the Act Employees State Insurance Act, 1948 - Sections 1 (5) and 2 (9) - Employees of a Co-operative Society who are also its share holders can be brought within the coverage of the Act. A member of a Co-operative Society is separate and distinct from the society as such which is a legal person. *In this judgment* **AIR 1970 SC 564 R.C. Kapoor v/s Union of India** *and* **1964 KLJ 175 Kerala State Handloom Ltd v/s State of Kerala** *are relied on and* **1964 (1) LLJ 280 S.A . Co-operative Motor Transport Society v/s Syed Batcha** *is dissented from.*

ILR 1980 (2) Ker 125 = 1980 KLT 199 = 1980 KLN 164 DB The Regional Director E.S.I. Corporation, Trichur v/s Taj Textiles Industrial Co-operative Society Ltd

Recovery of damages Employees State Insurance Act, 1948 - Section 85 B - Whether damages could be recovered without showing actual loss to the corporation. *In this judgment* **1979 KLT 653 Provident Fund Commissioner v/s B.P. & T. Products** *and* **1979 Lab IC 695 Atlantic Engineering Services v/s Union of India** *are followed.*

ILR 1980 (1) Ker 465 = 1980 KLT 179 DB E.S.I Corporation v/s M/s Miecos Ltd

Imposition of damages Employees State Insurance Act, 1948 - Section 85 B - Imposition of damages – Does not depend on proof of loss or damage to the employee or the corporation- Mere delay in the submission of the contribution cards cannot justify the imposition of damages. *In this judgment* **AIR 1979 SC 1803 Organo Chemical Industries v/s Union of India** *is relied on.*

ILR 1980 (1) Ker 626 = 1980 KLT SN 14 DB The Employees State Insurance Corporation v/s Binod Cashew Corporation Quilon

Shop – meaning of Employees State Insurance Act, 1948 - Section 2 (9) - Shop – Meaning of – Place where tea was brought processed and exported is a shop – Interpretation of welfare legislations should be consistent with the object, purpose and policy of the statute. *In this judgment* **AIR 1978 SC 474 K.C.P. Employees Association, Madras v/s K.C.P. Ltd, AIR 1978 SC 1478 Royal Talkies, Hyderabad v/s E.S.I. Corporation, AIR 1976 SC 1111 State Bank v/s N.S. Money, 352 US 128 Massachusetts B & Ins. Co. v/s United States, AIR 1977 SC 965 Board of Mining Examination v/s Ramajee, (180) 24 QBD 381 Barlow v/s Ross, ILR 1978 (2) Ker 660 George Mathew v/s Regional Director, Employees Insurance Corporation** *and* **ILR 1978 (2) Ker 1 M/s Beeyems Construction Co. v/s Government of Kerala** *are relied on.*

ILR 1979 (2) Ker 446 = 1979 KLT 563 DB Brook Bond India Ltd v/s The Regional Director, E.S.I. Corporation

Death of employee in an accident Employees State Insurance Act, 1948

- Section 51 A - Death of employee in an accident in the bus while going home after duty. The accident arose in the course of his employment. *In this judgment* **1917 AC 127 at 142 Thom or Simson v/s Sinclair, AIR 1970 SC 1906 at 1908 N. Mackenzie v/s I.M. Issak, 1918 AC 304 at 321 Sharles R. Davidson and company v/s M'Robb or Officer, AIR 1958 SC 881 at 882 S.S. Manufaacturing Co. v/s Bai Valu Raja, 1908 1 KB 469 at 471 Cremins v/s Guest, Keen and Nettlefolds, Limited, 1924 AC 59 St. Helens Colliery Co. v/s Hewitson, 1940 (3) All ER 157 HL Weaver v/s Tredegar Iron Co., AIR 1964 SC 193 at 199 B.E.S.T Undertaking v/s Mrs Agnes, 1975 KLT 712 Regional Director, E.S.I. Corporation Trichur v/s Krishnan, A.S.no. 65 of 1973 A.P. Mathai v/s Regional Director E.S.I. Corporation, 1975 (11) LLJ 255 E.S.I. Corporation v/s Smt Suhara Beevi, M.F.A. No. 8 of 1975 Chairman, Cochin Dock Labour Board v/s T.J. George** *and* **1978 KLT 218 E.S.I Corporation v/s Francis De Costa** *are referred to.*

ILR 1979 (1) Ker 164 DB E.S.I. Corporation v/s Lakshmi

Civil court has jurisdiction to enforce claims Employees State Insurance Act, 1948 - Section 43 - Whether after the repeal of Sections 66, 67 and 75 (2) (c) the civil court has jurisdiction to enforce claims under Section 67 accrued before repeal.

ILR 1979 (1) Ker 1 DB Employees State Insurance Corporation v/s Krishnaswamy Gowder and another

It is the responsibility of the person who questions the validity of the order to invoke the jurisdiction of the Court Employees State Insurance Act, 1948 - Section 45 B - Finality of the order- If however, the order is questioned or its validity is disputed, such question or Disputes has to be decided by the Court which is the competent authority under the State. It is the responsibility of the person who questions the validity of the order to invoke the jurisdiction of the Court if he seeks an adjudication of the Dispute. In the absence of any such invocation of the jurisdiction of the Court, the order retains its finality for the purpose of enforcement and section 45 B is attracted.*In this judgment* **1972 (2) LLJ 338 M.S. Dhananyayan v/s The Regional Director, Employees State Insurance Corporation Madras** *is relied on and* **1973 Lab IC 408 M/s Sri Krishna Mills Co. v/s The regional Director Employees State Insurance Corporation** *and* **1973 Lab IC 706 M/s Hindustan Liver Ltd v/s Employees State Insurance Corporation** *are dissented from.*

ILR 1978 (2) Ker 692 = 1978 KLT 852 Employees State Insurance Corporation v/s Sankaranarayana Transport

A construction company undertaking civil contracts with an office is a Shop Employees State Insurance Act, 1948 - Section 1 (5) - Notification issued under "Shops" meaning of - A construction company undertaking civil contracts

with an office is a "Shops". The principles applicable for interpretation of statutes apply to interpretation of notification also. *In this judgment* **AIR 1951 SC 318 State of Bombay v/s F.N. Balsara, AIR 1961 SC 751 State of U.P. v/s Babu Ram, AIR 1961 SC 838 Chief Inspector of Mines v/s K.C. Thapar, AIR 1957 SC 790 Kails nath v/s State of U.P., AIR 1975 SC 1172 Sabla Waghini and Co. v/s Union of India, 1949 KB 481 Seaford Court Estate Ltd v/s Asher, AIR 1964 SC 1272 Buckingham and Carnabic Co. v/s Venkatiah, AIR 1970 SC 488 C. Rly Workshop Thanoi v/s Viswanath** *and* **1963 AC 557 Luke v/s Inland Revenue Commissiner** *are relied on and* **12 STC 286 SC Ramavator Budhaprasad v/s Assistant Sales Tax Officers, 16 STC 467 SC K.K. Tea and Coffee Estate Co. Ltd v/s State of Kerala, 26 STC 339 SC Sarin Chemical Laboratory v/s Commissioner of Sales Tax** *and* **29 STC 729 All Coal Industries (Pvt) Limited v/s Commissioner of Sales Tax** *are referred to.*

ILR 1978 (2) Ker 1 M/s Beeyems Contstruction Company v/s Government of Kerala and others

Employees in Sales offices Employees State Insurance Act, 1948 - Section 2 (9) - Whether employees in Sales office selling product of different companies but principlay that of a particular company are employees of that company. This is a question of fact which has to be ascertained by a general application of the various circumstances connected with the employement.

ILR 1978 (1) Ker 480 DB The Tata Oil Company Ltd v/s The Employees State Insurance Corporation, Trichur

Employment injury Employees State Insurance Act, 1948 - Section 2 (8) - Injury sustained by a worker on his way to work is an employment injury. *In this judgment* **1940 (3) All English Law Reporter 157 Weaver v/s Tredger Iron and Coal Co. Ltd, 1954 (2) LLJ 403 Bhagabai v/s Central Railway Bombay** *and* **1964 (3) SCR 930 B.E.S.T Undertaking Bombay v/s Mis. Agnes** *are relied on* **1975 KLT 712 Regional Director ESI Corporation, Trichur v/s K. Krishnan** *and is distinguished.*

ILR 1978 (1) Ker 329 = 1978 KLT 218 DB Employees State Insurance Corporation v/s Francis De Costa and another

Maternity benefit Employees State Insurance Act, 1948 - Section 50 - Whether payments made by the employer by way of maternity benefit could be adjusted towards the contribution due. *In this judgment* **ILR 1972 AP 1103 Food Fats and Fertilisers Ltd v/s The Regional Director, Employees State Insurance Corporation** *and* **1974 (2) LLJ 115 Hindusthan Aeronautics limited v/s Regional Director** *are distinguished,* **1972 KLJ 243 Chandrasekharan Nair v/s The Regional Director** *and* **AIR 1962 Assam 120 K.C. Shama v/s Regional Director ESI Corporation** *are relied on and* **1973 KLT 571 South India Corporation (Travancore) Private Ltd v/s E.S.I. Corporation** *is*

referred to.

ILR 1976 (1) 249 E.S.I.Corporation Quilon v/s M/s South India Corporation (Travancore) P. Ltd Quilon

Incentive wages Employees State Insurance Act, 1948 - Section 2 (22) - Wages-definition-whether incentive wages is "Wages" as defined in the Act. *In this judgment* **1968 (1) LLJ 550 Braithwaite and Co. v/s Employees State Insurance Corporation, 1973 Labour and Industrial Cases 1328 Bengal Potteries v/s E.S.I. Corporation West Bengal** *and* **1974 Labour and Industrial Cases 1083 Regional Director E.S.I. Corporation v/s Management Mysore Kirloskar, Ltd** *are distinguished.*

ILR 1976 (1) Ker 1 DB Carborundum Universal Ltd v/s Regional Director Employee's State Insurance Corporation, Trichur

Workmen in the canteen Employees State Insurance Act, 1948 - Section 2 (9) - If the workmen in the canteen employed in connection with any work incidental to the purpose of the factory, then, even if they are employed by an independent contractor, they will be employees if they are working on the premises of the factory. The canteen employees are liable to be covered. *In this judgment* **AIR 1972 SC 1598 Ahmedabad Manufacturing and Calico Printing Co. v/s Bantakel, AIR 1973 SC 2297 Saraspur Mills Co. v/s Ramanlal and** *and* **AIR 1964 AP 291Sirsilk Ltd v/s Regional Director, ESI Corporation** *are relied on.*

ILR 1975 (2) Ker 125 = 1975 KLT 714 DB The E.S.I Corporation v/s United Electrical Industries Ltd

An apprentice is not an employee Employees State Insurance Act, 1948 - Section 2 (9) - An apprentice is not an employee entitled to the benefit of the Act.*In this judgment* **1967 (2) LLJ Pat 188 Employees State Insurance Corporation Patna and another v/s The Tata Engineering and Locomotive Company Ltd and another** *is referred to.*

ILR 1975 (2) Ker 284 = 1975 KLT 670 DB President, K.P. Co-operative Society v/s Regional Director, E.S.I. Corporation, Trichur and another

Indian Limitation Act, 1963 will not automatically be applicable to the proceedings of the Insurance Court Employees State Insurance Act, 1948 - Section 78 - The provisions of the Indian Limitation Act, 1963 will not automatically be applicable to the proceedings of the Insurance Court, for the Limitation Act is intended only to apply to proceedings before Civil Courts. *In this judgment* **AIR 1910 SC 209 Nityarand v/s LIC of India** *and* **1973 KLT 571 South India Corporation. (T) P. Ltd v/s Employees State Insurance Corporation** *are followed.*

ILR 1975 (2) Ker 432 DB Employees State Insurance Corporation v/s Rahelamma Varghese and others

A managing partner of a firm cannot be considered to be an employee Employees State Insurance Act, 1948 - Section 2 (9) - A managing partner of a firm cannot be considered to be an employee within the meaning of that term as defined in Section 2 (9) of the Employees State Insurance Act merely by reason of the fact that he is receiving salary or other remuneration. *In this judgment* **1905 (1) KB 324 Ellis v/s Joseph Ellis and Co** *and* **1960 (1) LLJ 59 State v/s Punto** *are relied on,* **1938 (2) LLJ 252 Chintaman Rao and another v/s State of Madhya Pradesh** *is referred to and* **1973 KLT 927 Insurance Inspector v/s Victory Tile Works** *is distinguished.*

ILR 1975 (2) Ker 207 Regional Director of E.S.I. Corporation v/s M/s Oosmania Tile Works Alwaye

Section 38 - Scope of Employees State Insurance Act, 1948 - Section 38 - Scope of.

ILR 1974 (2) Ker 536 DB Regional Director E.S.I. Corporation Trichur v/s Ruby Rubber Works Ltd Changanacherry

No necessity of a notification Employees State Insurance Act, 1948 - Section 1 (5) - There is no necessity of a notification under Section 1 (5) to extend the Coverage of the Act to such class of employees.

ILR 1974 (2) Ker 536 DB Regional Director E.S.I. Corporation Trichur v/s Ruby Rubber Works Ltd Changanacherry

Employee - meaning of Employees State Insurance Act, 1948 - Sections 2 (9) - "Employee" meaning of. *In this judgment* **AIR 1967 SC 1364 N.E.L.P. Co. v/s E.S.I. Corporation** *is relied on.*

ILR 1974 (2) Ker 536 DB Regional Director ESI Corporation, Trichur v/s Ruby Rubber Works Ltd, Changancherry

WORKMEN'S COMPENSATION

Driving licence Workmen's Compensation Act, 1923, Section 3 proviso Clause (b) (ii) - Insistence of a driving licence will have bearing only in respect of any injury not resulting in the death of a workman.

2005 (3) KLT 555 DB United India Insurance Co. Ltd v/s Annakutty

Workman drowned in the stream Workmen's Compensation Act, 1923, Section 3 - Workman staying in the bus for purpose of commencing its trip early morning - Workman drowned in the stream while taking bath - Shall be taken as one arising out of his employment. *In this judgment* **1996 (2) KLT 799, 1985 KLT 78** *and* **2000 (1) KLT 643** *are referred to.*

2005 (3) KLT 480 DB Oriental Insurance Co. Ltd v/s Thankappan

Payment of simple interest Workmen's Compensation Act,1923, Sections 4 A (3) (a) and 8 (1) and 17 - It is mandatory to pay simple interest at the rate of 12% from the date of accident - Cannot be bye-passed by settlement between parties. *In this judgment* **1997 (8) SCC 1** *and* **2002 (1) SCC 100** *are relied on.*

2005 (3) KLT 351 DB Raveendran v/s Jayasree

Worker employed even for one day Workmen's Compensation Act, 1923, Section 2 (m) (as amended) - A casual worker employed for employer's trade or business even for one day is covered under the Act.

2005 (3) KLT SN 54 DB Cherootty v/s Thrimathi

Accidental death during the course of employment Workmens Compensation Act, 1923 – Section 2 (n) – Accidental death during the course of employment – Workman – Casual workman employed for the purpose of trade or business is workman – Monthly wages in fixing compensation – It has to be calculated as per S.5 – Payment of interest on the compensation – Claimants are entitled to 12 percent interest from the date or accident till deposit of compensation.

This case is coming under S.5(c) and monthly wages can be assessed at Rs. 3,000 if the daily wage is Rs. 100. But as per S.4, Explanation II of the Workmen's Compensation Act as existed on 20th June 1996, the date of accident, only Rs. 2,000/- can be fixed as monthly wages for the purpose of calculating compensation. With regard to payment of interest, Section 4 (A) (3) (a) provides that the interest has to be paid from the due date. It has held that the due date is the date of accident. Therefore as per the provisions of the Statute, claimants are entitled to 12 per cent interest from the date of accident till deposit of compensation.

2004 (1) KLT 914 = ILR 2004 (1) Ker 221 DB Alex V. Chacko v/s Commissioner for Workmen's Compensation

Not having a driving licence at the time of the accident Workmens Compensation Act, 1923 – Section 22 – Applicant was not having a driving licence at the time of the accident – Licence issued only subsequent to the accident

– Commissioner proceeded to decide the matter as if the injured had a valid driving licence – Employer – employee relationship disputed – Approach of the Commissioner was without considering the evidence on the record.

These aspects were not considered by the Commissioner for Workmen's Compensation while disposing of the petition. The Commissioner proceeded to decide the matter as if the injured had a valid driving licence . The finding regarding employer- employee relationship, when it was disputed, was not considered in the proper perspective and the approach of the Commissioner for Workmen's Compensation was without considering the evidence on record and as such the matter has to be remanded for fresh consideration and disposal in accordance with law.

2004 (1) KLT SN 23 United India Insurance Co. Ltd v/s Vinu S. Nair

Employee suddenly getting heart attack and dying Workmen's Compensation Act, 1923 - S.3 – Employee suddenly getting heart attack and dying while proceeding to perform his duty – Commissioner is the competent authority to infer that the accident did in fact arise out of and in the course of employment – Meaning of "arising out' – Three conditions to be fulfilled.

Even in the absence of direct evidence, if the probabilities are more in favour of the applicant, considering the object of the Act, the Commissioner who is the competent authority is to infer that the accident did in fact arise out of and in the course of employment, In order to attract the above provision, three conditions mentioned therein are to be fulfilled. They are: (i) personal injury; (ii) accident; (iii) arising out of and in the course of employment. *In this judgment* **1991 (1) LLJ 66, 1958 ACJ 66, 1996 (6) SCC 1, 2003 (1) LLJ 776, AIR 1970 SC 1909** *and* **1998 (1) LW 669** *are referred to.*

2003 (3) KLT SN 136 DB Kalyani v/s Southern Railway

Amount of compensation Workmen's Compensation Act, 1923 - Section 4 – Amount of compensation – Determination – Commissioner cannot assess the percentage of loss of earning capacity of injured workman – Determining the compensation on his own basis not permitted – Compensation to be assessed by a qualified medical practitioner with regard to a non-scheduled injury where the loss of earning capacity is not prescribed in the statute.

With regard to a non-scheduled injury where the loss of earning capacity is not prescribed in the statute it has to be assessed by a qualified medical practitioner to find out whether there is a total disablement arising out of any injury not specified in the Schedule, but there is no scope for further enquiry by the Commissioner for Workmen's Compensation, if it is a case of scheduled injury.

2003 (2) KLT 121 Pillai v/s Vasukutty

Finding of employer-employee relationship Workmen's Compensation

Act, 1923 -S.30 – Finding of employer-employee relationship – Preponderance of probabilities is sufficient.

The substantial question of law raised in this appeal under S.30 of the Workmen's Compensation Act, 1923 by the workmen, is whether to come to a finding of employer-employee relationship preponderance of probabilities is sufficient rather than proof beyond doubt. Much consideration is not necessary, because it is not a criminal trial. Necessarily preponderance of probabilities is sufficient. More over a trial before Workmen's Compensation Commissioner is a summary trial.

2003 (2) KLT SN 48 Ravi Madhavan v/s Shekhara Panicker

For arriving at the compensation the schedule can be resorted to Workmen's Compensation Act, 1923, Section 4 (1) (c) (ii) – Commissioner himself cannot assess the loss of earning capacity – For arriving at the compensation the schedule can be resorted to as a guide line where claims in respect of non-scheduled injuries arise.

There was very brief hospitalisation and we are at as loss to understand what the Commissioner had attempted to convey by the observation. The limited period of hospitalisation of the applicants and absence of records relating to subsequent treatment leads me to such an assessment only' which we have already once quoted. The meaning conveyed appears to be that the Commissioner had restricted himself to award 70%, and the cases merited more. It is evident that there has been no proper application of mind while adjudicating the claim. The complaint of the appellants is well founded. *In this judgment* **1995 (1) KLT 275 FB** *is relied on.*

2000 (3) KLT 473 = 2000 (2) KLJ 704 DB United India Insurance Co. v/s Mohanan

If the injury was sustained while in the premises it is to be taken as one which occurred in the course of employment Workmen's Compensation Act, 1923, Section 22 – There is a presumption available that if the injury was sustained while in the premises it is to be taken as one which occurred in the course of employment.

Unless it is established that the accident took place as a result of willful disregard of any express instructions laid down for ensuring safety, or that the employee, during the work was under the influence of drinks or drugs, the disability due to the injury attracts compensation. The contention of the appellant disclaiming liability, therefore, is only to be rejected.

2000 (3) KLT 270 = 2000 (2) KLJ 433 DB Mar Themotheous Birth Centenary Press v/s Santhosh Raj

Loss of 3 fingers – Disability assessed at 30% Workmen's Compensation Act, 1923, Sections 4 and 22 – Loss of 3 fingers – Disability assessed at 30% -

Awarding compensation equal 80% of the earning capacity is not proper – Compensation is to be determined on the basis of index factors supplied by S.4 – Commissioner is not entitled to take note of the age in such cases – Victim cannot contend that he is prepared to do only one type of work – Enquiry as to whether the victim is capable of doing other works is relevant.

No person can assert or take shelter under a contention that he is prepared to do only one type of work and by the accident if he becomes unable to do the work ever thereafter, he is to be given 100% compensation. The proceedings permit an enquiry as to whether the victim was capable for doing the works that he was able to do at the time of accident. But so long as the law prescribes it as 30%, the Commissioner has no further discretion in the matter, His discretion, we would generally observe, could be applied when he fixes compensation for non-scheduled injuries, and then he has also the duty to get assistance from the medical practitioner, who are to examine the nature and extent of the injury and disability. The approach has to be realistic and never arbitrary.

2000 (3) KLT 270 = 2000 (2) KLJ 433 DB Mar Themotheous Birth Centenary Press v/s Santhosh Raj

The jurisdiction of the High Court is limited Workmen's Compensation Act, 1923, Section 30 – Appeal can be entertained only if there is a substantial question of law – The jurisdiction of the High Court is limited.

Under S.30 of the Workmen's Compensation Act, an appeal is envisaged only when there is a substantial question of law to be decided. The jurisdiction of the High Court is limited and the Commissioner, an acclaimed specialist in such adjudication has been bestowed with very wide powers.

2000 (3) KLT 270 = 2000 (2) KLJ 433 Mar Themotheous Birth Centenary Press v/s Santhosh Raj

Whether the accident was outside the hours of duty or within the duty hours cannot be a substantial question of law Workmen's Compensation Act, 1923, Section 30 – Whether the accident was outside the hours of duty or within the duty hours cannot be a substantial question of law.

The contentions as urged are insufficient for us to interfere in the order. Under S.30 of the Workmen's Compensation Act, an appeal is to be filed only if there is a substantial question of law. As pointed out above, the contention that whether the accident was outside the hours of duty or within duty hours, can never be projected as a substantial question of law. After going through the evidence, no person would rise to challenge the finding, for the workman while driving the vehicle, ever after feeling a discomfort was, with a sense of duty attempting to park the vehicle and the strain arising from the work over powered

him while at the steering wheel. *In this judgment* **1989 (1) KLT 753, 1996 (1) KLT 528** *and* **1996 (2) LLJ 955** *are referred to.*

2000 (3) KLT SN 53 P 49 = 2000 (2) KLJ 615 DB United India Insurance Co. v/s Fathima

Substitute worker is a workman Workmen's Compensation Act, 1923, Section 2 (1) (n) – Substitute worker (badli worker) engaged and paid directly by a permanent labourer is a 'workman' – Is entitled to Workmen's compensation.

Even if there is no employer-employee relationship with the principal employer, a substitute will be a workman if he is engaged for the service of the principal employer and he is occupied in the performance of work or duties for the principal employer of if he is retained for the service of the principal employer. What is of paramount importance is whether the person is engaged for the purposes of the trade or business of the principal employer. *In this judgment* **AIR 1936 All 690, AIR 1949 Mad 462** *and* **1985 ACJ 38** *are relied on and* **1980 KLT 191, 1987 (1) KLT 86, 1997 (2) KLT 812** *and* **1995 (2) KLT 349** *are referred to.*

2000 (3) KLT 10 = 2000 (2) KLJ 213 = ILR 2000 (3) Ker 646 DB Trivandrum Port & Headload Workers' Co-operative Society Ltd v/s Dhaneshkumar

Death of son in an accident while driving his father's vehicle Workmen's Compensation Act, 1923, Section 2(1) (b) (iii) – Death of son in an accident while driving his father's vehicle – Even if the father is an earning member, mother is entitled to take the stand that she was depending partly on the income of her son.

In the present case there is evidence to the 1st applicant, mother of the deceased, that she was depending on the earnings of her son. Even if her husband, 1st opposite party in an earning member, She can still take the stand that she was depending partly on the income of her son. Her evidence on this issue had been accepted by the Workmen's Compensation Commissioner. There is no reason for us in this appeal to take a different view. *In this judgment* **1900 AC 358** *and* **1910 AC 229** *are relied on.*

2000 (3) KLT SN 3 P 4 DB National Insurance Co. Ltd v/s Anakkal Padmavathy

Workman employed by contractor engaged for the purpose of expansion of the business of the company, dying in accident Workmen's Compensation Act, 1923, Section 12 (1) – Accident – Workman died – Compensation – Workman employed by contractor engaged for the purpose of expansion of the business of the company, dying in accident – Accident occurred in the factory premises under the control of the company where its business was carried on- Company will be the principal employer liable for compensation for the death of the workman.

ILR 2000 (2) Ker 672 DBMalankara Rubber and Produce Co. Ltd v/s Hameed and others

Liability to pay interest will run from the date on which the right to receive compensation accrued Workmen's Compensation Act, 1923, Section 4A (3) as unamended – Liability to pay interest will run from the date on which the right to receive compensation accrued, namely the date of accident and not when orders are passed by the Commissioner.

The right of the workman to get interest on the amount of compensation for the period in which it was not made available to him by the employer. Liability to pay interest will run from the date on which the right to receive compensation accrued in favour of the workman, namely, the date of the accident and not when the orders are issued by Commissioner for Workmen's Compensation. *In this judgment* **ILR 1997 (1) Ker 496** *is relied on and* **1998 (1) KLT 951** *and* **1999 (3) KLT 348** *are referred to.*

2000 (1) KLT 779 DB Gopinath v/s United India Insurance Co. Ltd

The injured workman becomes entitled to get compensation the moment the suffers personal injuries Workmen's Compensation Act, 1923, Sections 4 & 4A (As amended) – It is the amount of compensation payable on the date of the accident and not the compensation payable on account of the amendment made. In 1995.

The injured workman becomes entitled to get compensation the moment the suffers personal injuries of the types contemplated by the provisions of the Workmen's Compensation Act and it is the amount of compensation payable on the date of the accident and not the amount of compensation payable on account of the amendment made in 1995, which is relevant. *In this judgment* **1998 (1) KLT 951 FB** *is affirmed and* **C.A.16904-16906** *of* **1996** *are overruled.*

1999 (3) KLT 348 SC FB K.S.E.B. v/s Valsala

Enhancing the compensation amount and rate of interest operates only prospectively Workmen's Compensation Act, 1923, Sections 4 and 4A – Enhancing the compensation amount and rate of interest – Operates only prospectively and is not retrospective.

The general presumption is that every statute is prima facie prospective unless it is expressly or by necessary implication made to have retrospective effect. Right to claim compensation as well as the obligation to pay the same are created by the statute itself.

1999 (2) KLJ 574 FB New India Assurance Company Ltd v/s V.P. Chandran

Workman proceeding to his Bank from his residence by public bus Workmen's Compensation Act, 1923, Section 3 (1) – Arising out of and in the course of employment – Workman proceeding to his Bank from his residence by

public bus which plunged into river and the workman died – Travel by public transport cannot be regarded as part of his duty.

It is well settled that when a workman is on a public transport he is there as any other member of the public and is not there in the course of his employment unless the very nature of his employment makes it necessary for him to be there. A workman is not in the course of his employment from the moment he leaves his home and is on his way to his work. He certainly is in the course of his employment it he reaches the place of work or a point or an area which comes within the theory of notional extension, outside of which the employer is not liable to pay compensation for any accident happening to him. *In this judgment* **1996 ACJ 1281 SC** *and* **AIR 1958 SC 881** *are referred to.*

1999 (2) KLT SN 16 P 16 DB State Bank of India v/s Vijay Laxmi

The person regularly employed is not casual worker Workmen's Compensation Act, 1923, Section 2 (1) (n) – Workman – Scope of – The person has been regularly employed it ipso facto establishes that the employment was not casual.

When it is found that the 1st respondent has been regularly employed it ipso facto establish that his employment is not of casual nature. The main para of the said provision provides that 'workman' means (1) any person other than a person whose employment is of a casual nature and (2) who is employed otherwise than for the purposes of the employer's trade or business. The above two requirements are conjunctive and not disjunctive. That means, when these two requirements are satisfied, such persons may come within the category of 'workman' under an employer. But at the same time if a person has been in casual employment and has been employed not for the purposes of employer's trade and business, he cannot be said to be a 'workman'.

1999 (1) KLJ 284 DB Kerala Soaps and Oils Ltd v/s V.T. Valsan and another

Appeal will not lie unless a substantial question of law is involved in the appeal Section 30 - Appeal against the award of the Commissioner - Appeal will not lie unless a substantial question of law is involved in the appeal - No substantial question of law.

1998 (2) KLJ 593 DB State of Kerala v/s Ramaniamma and another

Appeal Section 30 - Appeals lies on the order of the Commissioner only on substantial question of law.

ILR 1998 (2) Ker 60 DB The Oriental Insurance Co. Ltd v/s V. Subramaniyan

Son of deceased workman born to his kept mistress living with the deceased workman is entitled to compensation Section 2 (1) (d) - Illegitimate child-Son of deceased workman born to his kept mistress living with the deceased workman is entitled to compensation is equal share as other heirs-Illegitimacy will not deprive him of his right to get compensation as under Hindu

Law even an illegitimate son is entitled to inherit the property.

Under the Hindu Marriage Act, the marriage of a second wife during the continuance of marriage and the lifetime of the first wife is prohibited and that may be said to be reducing the position of such girl who is married as second wife during the life time of first married wife, to be that of a kept mistress. But, Section 16 of the Hindu Marriage Act, very clearly provides that notwithstanding the fact that the marriage is null and void under Sec tion 11 of the Hindu Marriage Act or is so declared to be null and void, the children born of such marriage shall be legitimate children of his father irrespective of the marriage being null and void. Section 16 (2) further provides that such a child would be entitled to succeed to property of such person, that is, to the property of his parents (the father and second wife-the mother of the child might be, whose marriage with the father would have been null and void), but the child will succeed to the property of his father and to the interest of his mother.

1998 (2) KLT SN 45 P 38 Lathika v/s Karnataka Agro Industries Corporation

Loss of earning power should not be confined only to present capacity Section 4 (1) (c) (ii) - Employee injured in accident-Employer providing continuous employment on same terms - Is entitled to compensation - Loss of earning power should not be confined only to present capacity.

The loss of earning power should not be confined only to the present capacity because it is contended by the management that the same salary the workman is continued in employment. That will be only begging the question. If this were to be the law, the employer can easily evade the provisions of the Act by continuing the employment of the same terms as was enjoyed by the workman prior to the accident. Nor again can it be said that if in future the workman is compelled to seek employment at reduced wages he can claim compensation. That would only result in the negation of the beneficial provisions of the Act which are intended to benefit unfortunate workmen like the respondent herein. Added to this, should the management wind up its business, the workman will be in the lurch because no person with his eyes open will give employment to a person who had suffered an injury of this kind. *In this judgment* **AIR 1964 Pun 512 Sewa Singh Ladha Singh v/s Manager, Indian Hume Pipe Co. Ltd** *is dissented from and* **1988 (1) LLJ 63 The Management of Sree Lalithabika Enterprises, Salem v/s S. Kailasam** *and* **1978 (1) LLJ 141 Executive Engineer, (DLR) Udaipur v/s Narain Lal** *are relied on.*

1998 (1) KLT 252 = 1998 (1) KLJ 254 = ILR 1998 (2) Ker 248 DB The Kerala Minerals and Metals Ltd v/s Raman Nair

Liability arising under the workmen's Compensation Act Sections 3 and 4 A - Employer taking motor insurance- injury to employee on vehicle

arising out of and in the course of employment - Insurer liable to pay interest on compensation but not penalty, penalty being employer's liability- "Liability arising under the workmen's Compensation Act" meaning of-Motor Vehicles Act, 1988, Sections 146, 147 (1) (b) & 149.

Insurance companies which insure the liability of the owner of a motor vehicle as employer to Compensation Act, 1923, to an employee suffering injuries, fatal or otherwise, on the motor vehicle out of and in the course of his employment, are liable under s. 147 (1) (b) of Motor Vehicles Act, 1988, to pay not only the compensation payable by the employer to the employee but also interest thereon, if ordered by the Commissioner for workmen's Compensation. Under the Scheme of Section 4 A of the Workmen's Compensation Act, 1923, once compensation falls due and within one month it is not paid by the employer in accordance with Section 4 A (3) (a), interest at the permissible rate gets added to the principal amount of compensation. Interest on the principal amount partakes of the character of the legal liability of the insured employer to pay the compensation amount with due interest. Penalty imposed by the Commissioner under Section 4 A (3) (b), however cannot be said to automatically flow from the main liability incurred by the insured employer under the 'Workmen's Compensation Act. Such penalty amount as is imposed upon the insured employer would get out of the sweep of the term "liability incurred" by the insured employer as contemplated by the proviso to S. 147 (1) (b) of the Motor Vehicles Act, 1988.

1998 (1) KLT SN 9 P 10 SC DB V.P. Garg v/s Premi Devi

Society financing autorikshaw under hire purchase agreement Section 2 (e) and 3 - Society financing autorikshaw under hire purchase agreement-Society is the owner of the vehicle and liable to compensate the driver in case of his injuries.

ILR 1997 (3) Ker 17 = 1997 (1) KLJ 306 DB Secretary, Cannanore Co-operative Autorikshaw Drivers Society v/s Santhosh and others

Merely because the nature of the society is charitable, it will not get absolved from liability to compensate the workman Section 2 (1) (n) - Merely because the nature of the society is charitable, it will not get absolved from liability to compensate the workman who had met with an accident during the course of employment in connection with its business.

As is seen from Schedule. If the workmen engaged in farming and agricultural operations come within the definition of the 'Workman'. The appellant society is also conducting agricultural operations and framing. Even if private individual or society conducts agricultural operation for in-house use and consumption and not for the purpose of sale, there will be a profit element in the conduct of agriculture. Therefore, the agricultural operations of the appellant come within the term 'business' employed in Section 2 (1) (n) of the Act. *In this judgment* **1995 (1) KLT 621 Payannur Education Society v/s Narayani** *is*

relied on and **1994 (1) KLT 502 = 1994 (1) KLJ 479 M.M.Hassan v/s T.C.Mohammed** *is distinguished.*

1997 (2) KLT 812 = 1997 (2) KLJ 745 = ILR 1998 (1) Ker 374 DB Kerala Balagram v/s Kochumon

Accident occurs when the employment is of a causal nature Section 2 (1) (n) - Even if the accident occurs when the employment is of a causal nature in connection with the business of the employer, the exclusion clause does not apply.

Certain operations had to be done only once in a year. Even then, that is a part of the operation. Therefore, for that operation, a person has to be employed. Such employment cannot be presumed to be of causal nature, because employment is not merely depending upon chances. *In this judgment* **180 KLT 192 Kochu Velu v/s Josheph** *is referred to.*

1997 (2) KLT 812 = 1997 (2) KLJ 745 = ILR 1998 (1) Ker 374 DB Kerala Balagram v/s Kochumon

Bonus paid to an employee Section 2 (m) - Bonus paid to an employee can be taken into consideration while determining the wages as defined in section 2 (m).

This is a beneficial legislation in favour of a workmen who suffered employment injuries and who would be rendered without any means of sustenance if they could not make the same earnings as before or fell completely out of employment. The word 'benefit' contained in section 2 (m) therefore gets widest import so as to take in profit bonus used in the industrial sense. The conception of 'industrial bonus' is no longer regarded as an ex gratia payment. *In this judgment* **AIR 1951 Mad 856 C. Bakthavastalu Nayudi v/s The Chroma Leather Co. Ltd, AIR 1958 SC 153 Shree Meenashi Mills v/s Their Workman, AIR 1966 Bom 240 Maharashtra Sugar Mills Ltd v/s Ashra Jaiswant Tribhuvan** *and* **AIR 1960 SC 12 Central Bank of India v/s Their Workmen** *are relied on.*

ILR 1997 (2) Ker 721 = 1997 (1) KLJ 582 DB Jagadeesan v/s Indian Crump Rubber Factory and another

Principal employer to recover the compensation from the contractor Section 12 (2) - Even if the principal employer is directed to pay the compensation, to be recovered the same from the contractor.

If the principal employer's work which is ordinarily part of the trade or business is given on contract and it happened in the premises of the principal employer as prescribed under Section 12 (4), under Section 12 principal employer can be directed to deposit the amount of compensation.

1997 (2) KLT SN 42 P 40 Peter v/s Union of India

workman employed for the purpose of the trade or business of an employer Section 2 (n) - If a workman is employed for the purpose of the trade

or business of an employer, even if his employment is of a causal nature he would still come within the category of workman, provided the other conditions of the Section are fulfilled.

In order to exclude a person from the category of workman entitled to compensation under the Act, it has to be shown that he is a casual employee and further he is not engaged in the trade or business of the employer, It therefore, follows that if a workman is employed for he purpose of the trade or business of an employer, then even if his employment is of causal nature, he would still be coming within the category of a workman provided, of course, other conditions of the section are fulfilled.

1997 (2) KLT SN 42 P 39 Peter v/s Union of India

Proviso to Section 30 (1) is to protect the interest of the workers and their dependents Section 30 - The third proviso to Section 30 (1) is to protect the interest of the workers and their dependents and is therefore not unconstitutional.

The Workmen's Compensation Act is a welfare legislation. Section 30 provides for appeals when substantial questions of law are there. If there is no substantial question of law commissioners order becomes final Under third proviso to Section 30 (1) of the Act, the amount also has to be deposited. This is for protecting the interest of the workers and their dependents. This proviso is there in the Statute for more than 50 years. It was inserted by Act 15 of 1933. There is no ground to hold that third proviso to Section 30 (1) of the Act is unconstitutional.

1997 (2) KLT SN 42 P 39 Peter v/s Union of India

Sections 4 and 5 (as amended by act 30 of 1995) have no retrospective effect Interest on compensation amount to be paid from the date of accident-Penalty liable to be imposed when payment of compensation was denied without any justification.

Compensation becomes due on the date of the accident itself. One month's time is granted to the employer to satisfy the claim of the workmen. Any delay in making payment beyond the time granted by the Statute would make the employer liable to compensate the employee by paying interest. It is, therefore, the right of the workmen to get interest on the amount of compensation for the period in which it was not made available to him by the employer.

ILR 1997 (1) Ker 496 DB The Oriental Insurance Co. Ltd v/s Abdul Nazar

Public Works Department constructing and deepening existing wells Section 12 - Public Works Department of Government constructing wells and deepening existing wells due to drought-Work held to be business-Words and Phrases 'trade and business' meaning of.

In a Welfare State, any activity by the State for the welfare of the people, even though cannot be termed as trade, it will come within the definition of business In this case, due to drought conditions, naturally, construction of wells

and deepening of existing wells is one of ordinary work of P.W.D. one of the State Departments and, therefore, it could be considered as a business coming with in the scope of Section 12 of the Workmen's Compensation Act.

1997 (1) KLT SN 92 P 68 = 1997 (1) MLJ 613 Assistant Directory v/s Andi

Casual connection between death and employment Section 3 - Workman having chest pain in the early hours while in his house - Death later during the duty hours by heart attack - Sufficient to establish the required casual connection between death and employment.

The circumstances established in this case are sufficient to establish the required causal connection between the death and the employment. Understanding the expression 'accident' as an 'unlooked' for mishap' or as an 'untoward event' which is not expected or designed, the state of health which Ramayya was having at the relevant time, the employment as a gardent has at least accelerated his death or that his death was due not only to the disease but the disease coupled with the employment and such the death of Ramayya has arisen out of his employment. *In this judgment* **1989 (2) LLJ 30 United India Insurance Co. v/s C.S. Gopalakrishnan and another, 1954 (1) LLJ 614 Laxmibai Atmaram v/s Chairman and Trustees, Bombay Port Trust, 1984 (2) LLJ 70 Deshi Bhonji Kohna v/s Mary Bumo, 1978 KLT 897 Executive Engineer v/s Janaki, AIR 1963 Assam 127 Assam Railways and Trading Co. v/s Saraswati Devi** *and* **1990 Lab IC 1781 Zubeda Bano v/s Maharashtra S.R.T. Corporation** *are relied on.*

1996 (1) KLT 528 = 1996 (1) KLJ 623 = ILR 1996 (2) Ker 745 DB Thengackal Estate v/s Reethammal

Killing of a workman while he was in the course of his employment Section 3 - Killing of a workman while he was in the course of his employment, by an unknown person has to be considered as death caused as a result of an accident arising out of his employment.

The term 'accident' for the purpose of the law relating to compensation for personal injuries sustained by workmen and the employer's liability in that behalf, includes any injury which is not designed by the workman himself and it is of a consequence that the injury was designed and intended by the person inflicting the same. In the light of the admitted fact that the deceased was engaged as a driver by the first opposite party and that he was killed while he was in the course of performing his duties as a driver, there may not be any justification in law to contend that the accident has not occurred in the course of his employment. *In this judgment* **1979 KLT 97 Varkeyachan v/s Thomman, 1917 AC 352 Lancanshire and Yorkshire Railway v/s Highy, AIR 1970 SC 1906 M. Mackenzie v/s I.M. Issak, AIR 1955 Bom 105 Bhagubai v/s General Manager, central Railway, AIR 1966 MP 297 P.W.D. Bhopal v/s Kausa** *and*

AIR 1968 Cal 127 Kartick Chandra v/s State *are relied on.*

1996 (1) KLT 423 = 1996 (1) KLJ 356 = ILR 1996 (2) Ker 661 DB United India Insurance Co. Ltd v/s Philo

Transfer of property assets Section 14 A - Transfer of property assets after the compensation was awarded - as statutory first charge is created under the section, the amount will be a first charge on the assets so transferred to the workman.

ILR 1996 (1) Ker 246 K. Sreedharan v/s Thajudeen Koya and others

Causal nature of engagement must couple with the succeeding postulate that such employment should not be for the trade or business of the employer Section 2 (i) (n) - If a person has to be ousted out of the contours of the definition of workman, the causal nature of his engagement must couple with the succeeding postulate in the definition that such employment should not be for the trade or business of the employer.

Even assuming that claimant's employment on that day was of a causal nature, that by itself is not enough to push him out of the ambit of the definition of workman.

The word 'and' used in the definition is for the conjunction of the two postulates together in one person. No interpretation to make the two postulates disjunctive is warranted in the context. The word 'casual' must be given its normal meaning in the context in which the definition is formulated. The word 'casual' here only means just informal or a happening by chance or undesignated etc. *I n this judgment* **AIR 1936 Bom 199 N.H. Sidhwa v/s Krishnabai Bala, AIR 1961 Raj 145 Madanlal v/s Mangali, AIR 1949 Mad 462 Arumugham v/s Nagammal AIR 1953 Mad 432 Vinayaka v/s Pottiyamma** *and* **1974 Lab IC 290 Mys HC Ghodaka & Sons v/s Mahboob Sah** *are relied on.*

1995 (2) KLT 349 = 1995 (2) KLJ 268 DB Moideen v/s Gopalan

Application for compensation Workmen's Compensation Act, 1923 Application for compensation for the injury suffered by the workman-Medical Certificate can be acted upon even without examining the doctor who issued the same.

The appellant did not take any steps before the Commissioner to show that the certificate issued by the doctor is not a true one The appellants having not questioned the certificate before the Commissioner cannot at this belated stage contend that the non-examination of the doctor has prejudiced their case. *In this judgment* **1994 (1) KLT 657 Achoor Estate v/s Nabeesa** *and* **1992 (2) KLT 702 United India Insurance Co. Ltd v/s Sethu Madhavan** *are relied on.*

ILR 1995 (2) Ker 316 DB Venu and others v/s Senen Fernandez Alias Jose and others

Accident resulting in injury Section 30 - The question as to whether or not the workman was at the time of the accident employed by the employer and

whether or not the accident resulting in injury took place during the course of employment are all questions of the fact on which no appeal lies under Section 30

Where on a particular point there is evidence for and against, and finding is recorded by the Commissioner, on taking a particular view of the evidence, it cannot be questioned howsoever erroneous, as no question of law can be said to have arisen in such cases. *In this judgment* **1972 KLJ 252 N.P. Lalan v/s V.A. John** *is referred to.*

1995 (2) KLT 125 = 1995 (2) KLJ 319 DB Raveendran v/s Somavally

Business Section 12 - The word 'business' used in Section 12 has been intended to convey the meaning as the work or task undertaken by the person concerned which are not restricted to trade or commercial work alone- "Business" & "ordinarily" meaning of.

The word "business" in the section need be restricted to what is synonymous with trade. The word "business" has different shades of meanings. Among them the most suitable in the present context is that which. "The oxford Advanced Learners Dictionary of Current English" has given as its third meaning: "Task, duty, concern or undertaking to do a work". The word "ordinary" is employed in Section 12 of the Act for a different connection. That has to be understood in the background of the preceding portion in the Section wherein execution of the work carried out through any other person contracted by the principal for this purpose is mentioned. What the principal would have done if he has not contracted with another person to carry out that work? He himself would have normally done that work or caused it to be done under this supervision. The word "Ordinarily" is used in Section 12 of the Act for projecting that idea. So the word "ordinarily" in Section 12 of the Act means 'otherwise, normally". *In this judgment* **AIR 1954 Bom 129 Bata Shoe Company v/s Union of India, 1880 15 Ch. D 247 Smitha v/s Anderson** *and* **1981 Lab IC 498 Public Works Dept. v/s Commissioner** *are relied on,* **AIR 1993 SC 2178 Unnikrishnan v/s State of AP** *and* **1994 (1) KLT 502 Hassan v/s Mohammed** *are distinguished and* **1973 KLT 333 Vijayaraghavan v/s Velu** *and* **1989 (1) KLT 563 Travancore Devaswaom Board v/s Purushothaman** *are referred to.*

1995 (1) KLT 621 = ILR 1995 (2) Ker 826 DB Payyannur Education Society v/s Narayani

Homicidal attack made on the workman Section 3 - Homicidal attack made on the workman has to be treated as an accident as contemplated under Section 3.

When there is a lack of design on the part of a person who suffered that injury then the act which caused that injury on that person is certainly an accident. The term 'accident' for the purpose of the law relating to compensation for personal injuries sustained by workmen and the employer's liability in that

behalf includes any injury which is not designed by the workman himself, and it is of no consequence that the injury was designed and intended by the person inflicting the same. *In this judgment* **1979 KLT 97 Varkeyachan v/s Thomman** *is relied on.*

1995 (1) KLT 501 = 1995 (1) KLJ 407 DB Mathew Joseph v/s Jonhy Sunny

Report of the qualified medical practitioner Section 4 (10 (c) (ii) - In a case where the report of the qualified medical practitioner certifying loss of earning capacity alone is there and no other evidence is available, Commissioner cannot ignore the report and fix the compensation disregarding it.

To hold that the Commissioner can disregard without calling for any other data would be doing violence to the statutory provision. It is always open to the Commissioner to send the applicant before a medical board, he can very well adopt that method in a case where he finds that the certificate issued by a qualified medical practitioner is found wanting or suffers from any infirmity. In view of the newly incorporated words 'as assessed by the qualified medical practitioner' by virtue of Act 22 of 1984, its importance and significance cannot be overlooked. When a provision in a statute itself clear and unambiguous due significance must be attached to it. In other words, when the Legislature used appropriate terminology, the statute has to be read in accordance with the words used therein. So long as there is no provision which enables the Commissioner to determine the compensation ignoring the medical practitioner's report, there is no question of the Commissioner avoiding it unless of course be wants a second report from the Medical Board In a case where there is no such report, it is always open to the party concerned to get such report from the qualified medical practitioner who treated him for the injury sustained by him. It is equally possible for the opposite parties to get a report from the qualified medical practitioner. On a vacuum the Commissioner cannot, by substitution of his own conclusions decide the compensation amount. *In this judgment* **1992 (2) KLT 702 United India Insurance Co. Ltd v/s Sethu Madhavan** *is overruled and* **AIR 1992 SC 96 = 1992 Supp (1) SCC 323 Union of India v/s Deoki Nandan Aggarwal, AIR 1921 P.C. 240 Corporation of the City of Victoria v/s Bishop of Vancouver Island,** ***and*** **1991 Supp (1) SCC 600 Delhi Transport Corporation v/s D.T.C. Mazdoor Congress** *are referred to.*

1995 (1) KLT 275 = 1995 (1) KLJ 189 = ILR 1995 (2) Ker 107 FB New India Assurance Co. Ltd v/s Sreedharan

Driver of a Government vehicle is a work man Section 2 (1) (n) - Driver of a Government vehicle comes under the category of workman under the Act. *In this judgment* **1990 (1) KLT 256 Official Liquidator v/s K.S.E.Board** *is distinguished.*

1994 (2) KLT 941 = 1994 (2) KLJ 865 = ILR 1995 (1) Ker 280 DB Radhamony v/s Secretary Department of Home Affairs

Compensation due to a widow as a legal heir cannot be deprived to her merely on the ground that she has remarried Section 2 (1) (d) -Widow being a legal heir of her husband, compensation due to her as a legal heir cannot be deprived to her merely on the ground that she has remarried.

Under Section 21 of the Hindu Adoption and Maintenance Act, 1956 widow is a dependent of the deceased husband so long as she is not remarried. No such restricted definition is found under the Workmen's Compensation Act. As a widow is a dependent under the Act and as that status is not lost on account of her remarriage. She cannot be denied of the compensation given if it is assumed that she has married subsequently .

1994 (2) KLT 649 = 1994 (2) KLJ 625 DB Veerappan v/s Muthamma

Principal can get himself indemnified by the contractor Section 12 - Principal employer is also liable to pay compensation to the workman even if the workmen were engaged by the contractor - Principal can get himself indemnified by the contractor.

1994 (2) KLT 413 = 1994 (2) KLJ 348 DB Koodalingam v/s Superintending Engineer

Contract entered into between the principal and contractor Section 12 - Provisions in Section 12 (1) would apply notwithstanding the agreement or contract entered into between the principal and contractor regarding their liability for payment of compensation.

1994 (2) KLT 413 = 1994 (2) KLJ 348 DB Koodalingam v/s Superintending Engineer

Essential conditions to invoke Section 12 (i) Section 12 - Essential conditions to invoke Section 12 (i) That the persons (called the principal) is carrying on a trade or business and, in the course of or for the purpose of that trade or business, engages a contractor to execute the work, (ii) That work is ordinarily a part of the trade or business of the principal. (iii) The accident which gives rise to the liability for compensation must have occurred on, in or about the premises on which the principal has undertaken or usually undertakes to execute the work or which is in his control or management. (iv) The accident must have occurred while the workman was in the course of his employment in executing the work. *In this judgment* **1973 Lab IC 1520 Vijayaraghavan v/s Velu** *is relied on.*

1994 (2) KLT 413 = 1994 (2) KLJ 348 DB Koodalingam v/s Superintending Engineer

Loss of earning capacity is to be assessed by the qualified medical practitioner Section 41 (1) (c) (ii) - Primarily the loss of earning capacity is to be assessed by the qualified medical practitioner-Normally he should be examined to prove the certificate.

However in case there are special reasons, the Commissioner may accept other evidence to prove the medical certificate. Normally the Commissioner shall not decide the loss of earning capacity without a medical certificate of a qualified medical practitioner assessing the loss of earning capacity except in cases where there are special reasons to dispense with medical certificate. However, it goes without saying that the probative value of the medical certificate has to be adjudged by the Commissioner taking into consideration the other evidence in the proceedings. *In this judgment* **1992 (2) KLT 702 U.I. Insurance Co. Ltd v/s Sethu Madhavan** *is relied on,* **AIR 1937 Cal 526 East Indian Railway v/s Maurice Cecil Rayan, AIR 1956 T.C. 55 M.S.N. Co. Ltd v/s Mohad Kunju** *and* **1983 Lab IC 1285 Bengal Coal Co. Ltd. Girimint v/s Sew Punjab Harijan** *are referred to and* **AIR 1957 Cal 601 Sukhai v/s Hukmchand Jute Mills Ltd, AIR 1976 SC 222 Commissioner for Port of Calcutta v/s Shrinivas, AIR 1976 SC 222 Pratap Narain Singh v/s Shrinivas,** *and* **1984 ACJ 630 = 1984 KLT SN 129 P 790 Kochu Velu v/s Purakkattu Joseph** *are distinguished.*
1994 (1) KLT 657 = 1994 (1) KLJ 792 DB Achoor Estate v/s Nabeesa

Payment of bill for transport charges Deduction to meet contractor's responsibility under Workmen's Compensation Act and expenses incurred for medical expenses to the contractor's workmen – Legality of.
ILR 1986 (1) Ker 246 DB K.C. Thomas v/s The Fertilisers and Chemicals Travancore Ltd

CONSTRUCTION WORKERS WELFARE FUND ACT, 1989 (KERALA)

Act comes under Entry 24, List III in the seventh schedule Legislature is competent to enact the legislation. Construction workers – Include workers engaged in manufacturing of concrete poles. Construction Workers include workers under electrical painting and fabricating contractors also. - Exclusion of construction work undertaken by the Central Government – Not discriminatory or violative of Article 14 of the Construction of India. - Cost of construction – disparity in contribution on the basis of – Not discriminatory and violative of Articles 14 and 19 of the constitution of India. - Not invalid for want of quid pro quo- Not violative of Artsicle 19 (b) (g) of the Constitution of India. - Retrospective effect given to the Act and the scheme is legally valid. *In this judgment* **AIR 1955 SC 191 Budhan choudhry v/s State of Bihar, AIR 1986 SC 1541 Hindustan Paper Corporation Ltd. v/s Government of Kerala, AIR 1984 SC 95 Vikleld Coal Merchant, Patiala v/s Union of India, 1989 (1) KLT 729 Unni Mammu Haji v/s State of Kerala, AIR 1987 SC 2117 Prabhakaran Nair v/s State of Tamil Nadu, 1993 Supp (2) SCC 565 S.Ganapathraj Surana v/s State of Tamil Nadu, AIR 1995 SC 1620 Regional Executive Kerala FWF Board v/s M/s Fancy Food, AIR 1985 SC 790 M/s Gasket Radiators Pvt. Ltd. v/s E.S.I Corporation, AIR 1992 Ker 360 Indian Trawlers Association, Ernakulam v/s State, 1990 (1) KLT 254 Chellappan v/s State of Kerala, AIR 1974 SC 1832 M.G.. Beedi Works v/s Union of India** *and* **AIR 1983 SC 239 Sanjeev Coke Manufacturing Co. v/s M/s Bharat Coking Coal Ltd** *are relied on.* **ILR 1996 (1) Ker 315 = 1995 (2) KLT 724 DB Kerala Construction Worker's Welfare Fund Board v/s Govindankutty Kurup and others**

KERALA LABOUR WELFARE FUND ACT, 1975

Applicability of Welfare Fund Act to the employees of cooperative societies Labour Welfare Fund Act, 1975 (Kerala) – Section 2 (f) – Applicability of Welfare Fund Act to the employees of cooperative societies – Existence of Cooperative Employees Welfare Fund Board for the said employees does not exempt them from the provisions of Act.

All fines including the amount realized under Standing Orders from the employees by the employers are likewise to be credited. Deductions made under S.9 of the Payment of Wages Act also are to be transferred over to the fund. The Welfare Fund as above is to be utilized for the welfare activities of workmen, in general. The benefits that are envisaged as payable to the working class, and their welfare are far too numerous, and the cooperative fund referred to by the petitioner cannot at all be compared with the statutory fund by any stretch.

2004 (2) KLT 616 Pallipuram Service Cooperative Bank Ltd v/s Labour Welfare Fund Inspector

GOVERNMENT OF KERALA

Co-operation (B) Department

NOTIFICATION

G. O. (P) No.108/2000/Co-op. Thiruvananthapuram, 3rd July, 2000.

S.R.O.No. 616/2000- In exercise of the powers conferred by section 57 A of the Kerala Co-operative Societies Act, 1969 (Act 21 of 1969), the Government of Kerala hereby make the following Scheme for the establishment of a fund under the said Act and for matters connected there with, namely:-

THE KERALA CO-OPERATIVE WELFARE AND DEVELOPMENT SCHEME, 2000

1. Short title extent and commencement :-

(1) This scheme may be called the Kerala Co-operative Welfare and Development Scheme, 2000.

(2) It shall apply to all societies under the control of the Registrar of Co-operative Societies. It shall also apply to any other society registered under the Kerala co-operative Societies Act, 1969 as may be notified by Government from time to time.

(3) It shall come into force at once.

2. Definitions :-

(1) In this scheme, unless the context otherwise requires,-

(a) "Act" means the Kerala Co-operative Societies Act, 1969 (21 of 1969);

(b) "Fund" means the Kerala Co-operative Development and Welfare Fund established in accordance with the provisions of the Kerala Co-operative Societies Act, 1969 and the scheme;

(c) "Contribution" means the sum of money payable to the Fund by the Societies at the rates specified in paragraph 3;

(d) "Board" means the Kerala Co-operative Development and Welfare Fund Board Constituted under paragraph 4 ;

(e) "Secretary-Treasurer" means the Secretary-Treasurer of the Board;

(f) "Working Capital" means working capital arrived as per the Kerala Co-operative Societies Rules, 1969;

[*(g) "Member Society" means a co-operative society which has contributed to the fund at the rate as stipulated under paragraph 3 and admitted as such by the Board.]

* Inserted by SRO 562/2003

(2) Words and expressions used but not defined in this Scheme and defined in the Kerala Co-operative Societies Act, 1969 (21 of 1969), shall have the same meanings respectively assigned to them in the Act.

3. Establishment of the Fund :-

(1) There shall be established a co-operative Development and Welfare Fund for the payment of grant or loans to societies for safeguarding the interest of the member societies against any loss or damage to their assets and properties and for utilising for their developmental activities.

(2) The Fund shall vest in and be administered by the Board.

(3) The Fund shall consist of:-

[*(a)Initial contribution from the member societies at the rate of Rs. 2 per Rs. 1000 of the working capital subject to a maximum of Rs. 2 lakhs in respect of Apex and Central societies and Re.1 per Rs. 1000 of the working capital subject to a maximum of Rs. 1 lakh in respect of all other societies at the time of admission.

(b) Annual renewal contribution at the rate of 10% of the initial contribution for the Apex and Central societies and at the rate of 5% of the initial contribution.for all other member societies.]

(c) Grant or loans or advances if any made by the State Government.

(d) All sums received by the Board from such other sources as may be decided by the Government.

(e) Any other amount received by the Board towards the fund.

4. Constitution of the Board :-

(1) The Government shall constitute a Board to be called "The Kerala Co-operative Development and Welfare Fund Board" for the administration of fund.

(2) The Board shall consist of the following members, namely:-

1. President, Kerala State Co-operative Bank.
2. President of any one of the District Co-operative Bank to be nominated by Government
3. Two representatives of the committee of the Primary Agricultural Credit Societies to be nominated by Government.
4. A representative of the committee of non-agricultural credit societies to be nominated by Government.
5. Chairman, State Co-operative Union.
6. Two eminent co-operators to be nominated by Government.

* Substituted by SRO 562/2003

7. Secretary, Co-operation.
8. Registrar of Co-operative Societies.
9. Secretary of the Board.

(3) One of the members shall be nominated or appointed by Government as the Chairman of the Board.

(4) The term of the Board shall be for a period of 5 years.

(5) The Board shall be body corporate by the aforesaid name having perpetual succession and a common seal.

(6) The Board shall be responsible for the proper administration of the fund.

(7) Not less than five members of the Board shall form the quorum. Each member present shall have one vote and every issue shall be decided by majority of votes and in the event of equality of votes the Chairman shall exercise a second casting vote.

(8) Subject to the provisions herein contained, the Board shall have power to frame subsidiary rules and regulations for the conduct of its business.

(9) The board may delegate to the Secretary-Treasurer such of its powers, as in the opinion of the Board, are necessary for the management of the fund.

(10) All contracts and agreements shall be made and executed in the name of the Board and signed on its behalf by the Secretary-Treasurer.

(11) The Board shall be the authority for sanctioning the assistance from the fund.

(12) A member of the board shall cease to be a member if he dies, resigns his membership or becomes of unsound mind or insolvent or is convicted of a criminal offence involving moral turpitude.

(13) Resignation of membership shall be tendered to the Chairman of the board and shall become effective from the date of its acceptance or on the expiry of 30 days after the date of resignation, whichever is earlier.

(14) Vacancies in the Board shall be filled up in the manner in which the Board was originally constituted.

(15) The Board shall meet as and when it is found necessary for the transaction of the Fund, but in any case at least six times a year.

(16) (a) The Secretary-Treasurer of the Fund shall be a Joint Registrar of Co-operative Societies.

(b) The Board may appoint such other staff or make such other arrangements as they may deem necessary for the efficient control, management and administration of the Fund; provided that the sanction for creation of posts should be obtained from Government.

(17) It shall be the duty of the Secretary-Treasurer-

(a) To keep in safe custody of all records of the Board;

(b) To conduct the official correspondence on behalf of the Board;

(c) To issue all notices for convening the meetings of the Board;

(d) To keep minutes of all meetings of the Board;

(e) To manage the properties and funds of the Fund;

(f) To maintain or cause to be maintained the accounts of the Fund;

(g) To sue and to be sued on behalf of the Fund; and

(h) To exercise all other powers and execute such other functions as may be assigned to him by the Board.

(18) No remuneration except T.A. and D.A. shall be paid to any of the members of the Board without the previous approval of Government.

5. Remittance and Deposit of Contribution to the Fund :-

A Society admitted to the scheme shall contribute to the fund at the rates specified in the paragraph 3. The contribution shall be remitted in the account of the Board in the manner as prescribed by the Board. All the money belonging to the Fund shall be deposited in the [*Kerala State Co-operative Bank or in any District Co-operative Bank within the state] in the name of Secretary-Treasurer.

6. Withdrawal of Funds :-

Withdrawal of any amount from the accounts of the Fund shall be regulated in the manner to be determined by the Board. Such withdrawal shall be made by cheque or requisitions signed by the Secretary-Treasurer.

7. Utilisation of the Fund :-

The Fund shall be utilised for the following purposes namely:-

(a) To rehabilitate the society on the basis of specific projects, either by way of loans or subsidy or both; or

(b) To make good the loss or damage to the assets, properties and the funds of the participating societies, except the loss sustained due to mismanagement; or

(c) To implement developmental projects by way of loans.

8. Expenditure from the Fund :-

All expenses of the Board for, the administration of the fund, shall be met from the fund.

[***9. Conditions for payment of assistance to member societies :-** The Societies contributing to the fund at the rate specified under paragraph 3 alone shall be eligible for getting any type of assistance under this scheme]

* Substituted by SRO 562/2003

10. Sanctioning of the assistance :-

(1) The Board is the authority to sanction the assistance under the scheme.

(2) The Board shall frame such regulations as are necessary for sanctioning the assistance. Such regulations shall inter alia contain the details of procedure for applying for the assistance, the enquiries to be conducted, the verification to be made, the documents to be obtained, the quantum of the amount of assistance to be sanctioned, the mode of repayment, the rate of interest on loans if any to be charged, the securities to be obtained and other required details. The regulations shall have to be approved by Government.

11. Accounts and Audits :-

(1) The accounts kept by the Secretary-Treasurer of the Fund shall be audited annually by an Auditor appointed by the Director of Co-operative Audit and a report consisting of income and expenditure statement and the balance sheet duly certified, shall be furnished by him to the Secretary-Treasurer of the Fund. He will place the report before the Board within 30 days of its receipt.

(2) Copies of the annual accounts of the Fund duly audited and certified by the Auditor shall be submitted by the Secretary-Treasurer to the Government of Kerala every year.

12. Annual Report :-

An annual report on the working of the Fund shall be prepared by the Secretary-Treasurer and shall after approval by the Board, be presented to the Government of Kerala.

By order of the Governor
Kuruvilla John
Secretary to Government

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

As per section 57A of the Kerala Co-operative Societies Act, 1969 amended as per the Kerala Co-operative Societies (Amendment) Act, 1999, Government may, by notification in the Gazette, frame a scheme to be called the Co-operative Welfare and Development Scheme for the establishment of fund under the Act.

This notification is intended to achieve the above object.

*DEPOSIT GUARANTEE SCHEME 2000

1. Short title and Commencement :- (1) This scheme may be called the Deposit Guarantee Scheme. 2000

(2) It shall come into force at once.

2. Interpretation :- All the words and expressions used in this scheme shall have the same meanings on assigned to them in the Kerala Co-operative Societies Act. 1969 (21 of 1969), and the Rules made thereunder.

3. Purpose of the scheme :- The purpose of this scheme is to provide guarantee for the deposits made in the Co-operative Societies and for creating confidence among the depositors for attracting more deposits.

4. Applicability :- (1) This scheme shall apply to all Primary Agricultural Credit Societies except those which are defunct or dormant or which are under liquidation.

(2) The Primary Agricultural Credit Societies admitted to the Scheme shall have to maintain fluid resources as provided in the Kerala Co-operative Societies Rules, 1969.

(3) The Primary Agricultural Credit Societies shall have proper facilities for the safety of valuables and records.

(4) The Societies which are eligible to be included in the scheme shall be notified to the District Co-operative Bank by the Joint Registrar (General) of the District.

5. Constitution of the Deposit Guarantee Fund :- (1) The District Co-operative Banks, as soon as may be after the coming into force of this scheme, Constitute a fund for the Primary Agricultural Credit Societies by name "the Deposit Guarantee Fund".

(2) The corpus of the Fund shall be built up by contributions from the Primary Agricultural Credit Societies, District Co-operative Banks and the Kerala State Co-operative Bank at the rates specified hereunder.-

(a) Primary Agricultural Credit Societies	10 paise for every deposit of hundred rupees or parts thereof.
(b) District Co-operative Bank	3 paise for every deposit of hundred rupees or part thereof.
(c) State Co-operative Bank	2 paise for every deposit of hundred rupees or part thereof.

(3) The balance of funds if any available with the District Co-operative Banks under the scheme approved as per G.O.(Ms.) No.71/95/Co-op. dated 31-3-1995 on the commencement of the scheme shall also be transferred to the corpus of the fund.

6. Contribution to the Fund :- (1) The initial contribution to the Fund is to be made on the outstanding amount of deposits of Primary Agricultural Credit Societies at

*Introduced by SRO 1/2001 published in K.G. Ex. No. 46 dated 2.1.2001

the beginning of the year in which the scheme comes into force. Subsequent contribution is to be made on the net increase in deposits at the end of each year.

(2) The initial contribution to the Fund payable by the Primary Agricultural Credit Societies shall be remitted either in lump or in three annual installments. The subsequent contribution to be remitted at the end of each accounting year on the basis of the net increase in deposit shall be remitted in lump. The contribution of District Co-operative Banks and Kerala State Co-operative Bank shall be made either in lump or two or three installments according to the quantum of contribution made by the Primary Agricultural Credit Societies to the corpus of the fund of each District Co-operative Bank.

(3) The Primary Agricultural Credit Societies shall remit the contribution to the Fund within 6 months from the date of close of the year calculated at the prescribed rate specified under clause 5. If the annual contribution due is not paid within 6 months as mentioned above, the deposits of such society shall be excluded from the guarantee cover for the period of such delay. The guarantee will stand revoked if the annual guarantee contribution is not remitted with interest at 12% per annum together with a penal interest at the rate of 3% for the period of delay.

(4) No portion of the contribution remitted shall be refunded to any society for any reasons.

(5) The Government may at their option make contribution to the corpus of the fund which may be kept at the level of District Co-operative Banks.

7. Investment of the Fund :- The corpus of the fund shall be invested in the District Co-operative Bank as special deposit earning interest at the maximum rate payable by it on fixed deposits. The interest earned on the corpus shall be reinvested in the corpus half-yearly.

8. Utilisation of the Fund :- The fund shall not be utilised for any other purpose except for the settlement of claims in respect of the deposits which are guaranteed. The amount guaranteed per depositor shall not exceed Rs.1,00,000 (Rupees one lakh only).

9. Administration of the Fund :- (1) In every District the Corpus of the fund shall be administered by a District Level Committee consisting of the following members, namely:-

(1) President of the District Co-operative Bank, Chairman;

(2) Joint Registrar of Co-operative Societies, Member;

(3) A representative of Kerala State Co-operative Bank, Member;

(4) President of a Primary Agricultural Credit society of the District to be nominated by the District Co-operative Bank, Member;

(5) General Manager, District Co-operative Bank, Convener,

(2) There shall be a State Level Committee to monitor the working of the scheme consisting of the following members, namely.-

(1) The President, Kerala State Co-operative Bank, Chairman;

(2) Secretary to Government, Co-operation Department, Member;

(3) The Registrar of Co-operative Societies, Member;

(4) The Managing Director, Kerala State Co-operative Bank Convener;

(5) Presidents of three District Co-operative Banks from three regions of the State nominated by Government, Members.

The State Level Committee shall supervise implementation of the scheme and issue guidelines and directions to the District Level Committee in respect of all matters relating to the scheme.

10. General :- (i) All types of deposits of any duration in Primary Agricultural Credit Societies except Chitty deposits and staff security deposits shall be covered by the scheme.

(ii) The interest of deposits paid by the Primary Agricultural Credit Societies shall be at the rates as prescribed by the Registrar of Co-operative Societies.

(iii) The corpus of the fund in the District Co-operative Bank shall be operated by the General Manager of the District Co-operative Bank.

(iv) If any society covered by the scheme is unable to make payments due to embezzlement, theft, fire or such other similar causes, the depositor shall be free to approach the District Co-operative Bank and the District Co-operative Bank shall place the claim before the District Level Committee for its settlement within a month from the date of such claim.

(v) It shall be the responsibility of the District Co-operative Bank to scrutinise and verify the claim with regard to its correctness and satisfy itself of the amount payable in each cases.

(vi) The District Level Committee shall after due consideration, sanction the claim within a period of 2 months from the date of such claim, which period may be extended by one more month if necessary.

(vii) The District Co-operative Bank shall have the power to take action against the Primary Agricultural Credit Society for the recovery of the amount paid to any depositor in violation of the rules in respect of invoking the guarantee; or in excess of the contribution made to the fund by the concerned society with interest thereon at such rate as may be decided by the District Level Committee from the Primary Agricultural Credit Societies.

(viii) The payment towards the claims shall be made only out of the fund. If the amount required to be paid exceeds the amount available in the fund, the District Co-operative Bank concerned shall make advance, to the fund from its own funds. The advances, if any, so made shall subsequently be recouped by the District Co-operative Bank from the fund as and when it is having sufficient fund in the credit.

(ix) The District Co-operative Banks and Primary Agricultural Credit Societies under the Scheme shall maintain such records and furnish such returns as may be prescribed by the Registrar of Co-operative Societies from time to time.

THE KERALA STATE CO-OPERATIVE COMMISSION AGENTS WELFARE SCHEME

Government of Kerala

Abstract

Co-operation-Kerala State Co-operative Employees Welfare Board-Scheme for the Welfare of Commission Agents/Salesmen working in the Co-operative Institution-approved-Orders Issued

CO-OPERATION (C) DEPARTMENT

G.O.(Ms) No.27/2001/Co-op Thiruvananthapuram, Dated 31-1-2001,

Read **: 1. G.O. 363/86/Co-op. dated, 30-9-86**

2. Resolution No. 11 dated 18-10-2000 of the Managing Committee of the Kerala State Co-operative Employees Welfare Board

3. Letter No. EM (2) 43169/2000 dated 24-11-2000 of the Registrar of Co-operative Societies, Thiruvananthapuram

ORDER

The Managing committee of the Kerala State Co-operative Employees Welfare Board as per Resolution read as 2nd paper above resolved to approve the scheme for the welfare of commission Agents/Salesman working in the Co-operative Institutions. The Registrar of Co-operative Societies as per letters read as 3rd paper above have recommended the scheme and requested Government issue necessary approval to the scheme.

2. After having considered the scheme furnished by the Kerala State Co-operative Employees Welfare Board and the recommendations of the Registrar of Co-operative Societies.

Government are pleased to approve the scheme for the Welfare of the Commission Agents working in the Co-operative Institutions, as appended to this order.

By order of the Governor,
C.P. Sreelatha,
Additional Secretary to Government

APPENDIX

1. Short Title and Commencement :- This scheme may be called The Kerala State Co-operative Commission Agents Welfare Scheme 2001.

2. Definition :- In this scheme unless the context otherwise requires:-

a. Board, Managing Committee, Chairman, Vice-Chairman, Secretary-Treasurer, Year, shall have the same meaning assigned to them under the Kerala State Co-operative Employees Welfare Board rules.

b. Form :- Means a form appended to this scheme.

c. Commission Agents / Salesmen :- Means a person who is engaged as deposit collectors/Bill collectors/Salesmen persons working in Neethi Stores / and Neethi Medical Stores or any persons working in any other name on commission basis in a Co-operative Society registered or deemed to be registered. Constituted or established under the KCS Act 1969 (Act 21 of 1969) and coming under the administrative control of the Registrar of Co-operative Societies and co-operatives coming under other departments of the State Government.

d. Employer :- Means any co-operative Institution who engage any persons as commission agent as defined in clause 2 (c) of Rule 2, to his institution.

e. Member :- Means any persons as defined in clause of Rule (2) of this rules and who contributes to the scheme. And who come with in the age group of 18 to 60 years.

f. Scheme :- Means scheme formed under these rules.

g. Nominee :- Means a member of the family of the commission agent or any other persons nominated by the commission agent for the purpose of these rules and family shall mean wife, husband, children, dependent parents and children of a deceased son of the subscriber.

h. All other words and expressions used in the scheme but not defined shall have the meaning respectively assigned to them in the Kerala State Co-operative Employees Welfare Board rules.

3. Objects :- The objects of the Scheme are:-

a. To raise and administer funds for the Welfare of the commission agents as defined in Rule (2) generally and to alleviate the distress of the said commission agents and the dependents in indigent circumstances and

b. To do what is incidental to the above object such as providing relief by grant of money or other aid to help otherwise as the Managing Committee may deem fit.

4. Management :- The management and administration of the scheme shall vest with a Managing Committee constituted as per section 4 of the Kerala State Co-operative Employees Welfare Board rules.

5. Funds of the Scheme :- It shall consist of the following:-

a. Monthly contribution from the members of this scheme.

b. Contribution from co-operative Institutions of this scheme.

c. Contribution from Co-operative Institutions towards the scheme.

d. Income arising out of the investments of the funds.

e. Contribution from State or central Government and Local Bodies and other approved agents.

6. Mode of Joining the Scheme :- Every member (commission agents) shall apply for the membership to the secretary in form No.C. 1 through the Chief Executive of the institution along with a copy resolution of the Management and a Certificate Issued by the Chief Executive as prescribed in the form No.C7

7. Contribution :- Every member shall pay a monthly contribution Rs. 30 to the scheme from the date on which he/she joins the scheme and every institution shall contribute an equal amount contributed by the member towards the scheme (as defined in the Rules of Kerala State Co-operative Employees Welfare Board.)

8. Recovery and Deposit of Contribution :-

a. Every institution shall recover the monthly contribution at the rates prescribed in rule 7 from each member from his/her commissions who exercised their option to come over to the scheme. Separate ledger shall be maintained by the institution for each commission agent in the form prescribed in form No. C-3.

b. The amount so recovered along with contribution from the side of the institution under Rule 8(a) shall be remitted by the institution in the nearest branch of the concerned District Co-operative Bank within five days from the date of recovery along with a schedule in four copies in the form prescribed in form No. C,4. in the account number specially opened for this purpose.

c.The concerned branch shall after making necessary entries thereon send the copy of the schedule to the societies who remit the amount and one copy of the same to be retained in the branch of the District co-operative Bank concerned. The secretary shall sent one copy directly to the secretary Treasurer of the Board immediately.

d. on the basics of the schedules received, the secretary shall maintain separate ledger account of each commission Agent besides other accounts and registers.

e. The amount received by the branches of the District Co-operative Banks under the scheme shall be credited in a separate savings Bank account (Maximum interest bearing saving Bank account) in the name of the additional registrar/secretary-Treasurer, Kerala state co-operative Employees Welfare Board, Trivandrum opened specially for this scheme in the Head office branch of the concerned District co-operative Bank Ltd.

9. Withdrawal of Funds :- Withdrawal of any amount from the accounts of the scheme shall be regulated in the manner to be determined by the managing committee. Such withdrawal shall be made by cheque or requisitions (as the case may be signed by the secretary-Treasurer.

10. Death Benefit to the Family of the Member :- If a member coming under the clauses 7 dies while in service an amount of Rs.25,000 shall be paid to his/her family.

In the event of death of a member covered by the scheme, the president of the institution shall obtain an application, in the form prescribed in form No. C 5, addressed to

the Secretary – Treasurer of the Board from the nominees claiming the amount and forward the same with the relevant details, duly recommended by the president, Secretary and two Board of Directors of the institution with in 60 days from the date of death of the member.

11. Retirement benefits :- On retirement/relief on other grounds, of a member coming under the scheme the actual amount contributed by him/her along with the contribution by the Management shall be paid to him/her.

On the retirement/relief of a member coming under the scheme the president of the institution shall obtain and forward an application in the form prescribed in form no. C6 from the commission agent with the resolution to this effect duly recommended by the President, Secretary and two Board of directors of the Institution, to the Secretary-Treasurer of the Board with in 60 days from the date of retirement/relief.

12. Cash award :- At state level, children of the commission agents coming under rule of this scheme who secure the first two places in the S.S.L.C. examination in every academic year shall be given cash awards of Rs. 5,000 and Rs. 3,000 respectively for the I st and 2nd places.

Similarly at District level one cash award of Rs. 1,000/- shall be given in every academic year to the child of the employees coming under rule of this scheme who secure the highest marks in the S.S.L.C. examination in the District.

Those students who intend to apply for the cash award shall submit their applications in the prescribed form shown in form No. C6 along with the true copy of the mark list of S.S.L.C. Certificate duly attested by the concerned Headmaster/ Headmistress of the school in which he/she has studied and forward the same to the Secretary-Treasurer of the Kerala State Co-operative Employees Welfare Board, duly recommended by the concerned President and secretary and two Board of Directors of the Institution within thirty days from the date of publication of the S.S.L.C. results.

13. After thorough scrutiny of the application received the Secretary-Treasurer of the Board, shall places them before the Managing Committee for sanction. In urgent cases, the applications will be submitted to the vice-chairman of the Board, for sanctioning the claim under Rule 10, and the Secretary-Treasurer of the Board shall sanction the claim under Rule 11.

On getting sanction from the Managing Committee/Vice chairman, as the case may be the Secretary-Treasurer shall issue order to disburse the amount admissible to the employees according to Rule 10,11,12.

14. Disbursement of the Amount :-

(a) In a case where some person/persons other that a member of the family has/have been nominated, and it is found on an enquiry conducted or cause to be conducted by the Managing Committee that the deceased commission agent had a family at the time of his/her death, then the amount due shall be paid to the family of the

deceased. The order of preference for payment shall be that given in the definition of family member to whom the amount due happen to be a minor, the amount/share due to such minor (s) under the scheme should be paid to the surviving wife/husband ie. Mother/father or the minor of the deceased subscriber for the benefit of the minor after obtaining stamped receipt for the payment. In the absence of wife/husband (ie. Mother/ father of the minor) of the deceased, the amount will be paid to legal guardian of the minor for the benefit of the minor.

(b) If the enquiry shows that the subscriber had not acquired a family, the amount can be disbursed to the nominee (s) specified in the nomination filed by him.

(c) In case of subscribers who do not have a family but die in harness without filling a nomination, the Managing Committee shall consider the claim for payment, if any, preferred and on being satisfied of the genuineness of the claim, after making nor causing to make such enquiries as they deem fit, sanction the same. The payment shall be made only after getting an indemnity bond duly executed by the claimant in the form prescribed in form No.C-11 duly stamped for the gross amount due for the payment with two sureties of known financial stability. The claimant as well as the sureties executing the bond should be persons who have attained majority. Where two or more persons claim the amount, each should execute indemnity bond individually.

(d) In case there arise any doubt to the claimants legal right to the amount the under the scheme, payment will be sanctioned only to the person who produces a succession certificate, In case where the claimants are minor the amount due under the scheme will be sanctioned only on production of a succession certificate from the court.

(c) The amount sanctioned will be disbursed by a crossed cheque drawn in favor of the claimant/employee or the nominee (s) as the case may be.

15. Accounts and Audit :- Separate accounts shall to be maintained with regard to the contribution as well as disbursement of assistance towards this scheme and same is to be produced before audit.

Audit of accounts relating to the fund at batch level shall be conducted by the Auditors of the Co-operative Department conducting the annual audit of institutions concerned and the accounts incorporated in the of each institutions.

The accounts kept by the Secretary-Treasurer of the fund shall be audited annually by an Auditor appointed by the Registrar of Co-operative Societies and a report consisting of income and expenditure statement and balance sheet duly certified, furnished to the Secretary-Treasurer of the Board. He will place the report before the Managing Committee within 30 days of its receipt

Copies of the annual accounts of the Board audited and certified by the Auditor shall be submitted by the Secretary-Treasurer to the Government of Kerala every year.

16. Annual Report :- An annual report on the working of the scheme shall be prepared by the Secretary-Treasurer along with a report of the scheme and shall after approval by the Managing Committee be presented to the Government of Kerala.

17. The Managing Committee with the approval of Government may appoint such other staff or make such other arrangements as they deem necessary for the efficient control and administration of the scheme.

18. Administrative Expenses :- Administrative expenses shall be a legitimate charge on the assets of the funds.

19. Repeal and Savings :- The Managing Committee shall, within the frame work of the constitution of the scheme as laid down above, have full powers to repeal amend or revise any or all of these rules with the prior approval of Government whenever, in the opinion of the Managing Committee, it is expedient to do so.

FORM No. C-1

FORM OF OPTION TO THE KERALA STATE CO-OPERATIVE EMPLOYEES WELFARE BOARD TO THE COMMISSION AGENTS OF CO-OPERATIVE INSTITUTIONS

(Vide Rule-6)

1.(Name of the member)…….....….hereby elect or join the Kerala State Co-operative Employees Welfare Board with effect from…….My rate of contribution is Rs……

Age :
Date of birth :
Signature :
Name :
Designation :
Society/Bank in which :
Employed :
Station :
Date :

We hereby agree to collect and remit the member's premium as well as contribution of the institution.

Secretary President

Date and No. of resolution (of the Society / Co-operative Bank agreeing to contribute the premium) :
Station :
Date :

Option form received and accepted

(Office Seal) President

FORM No. C-2

FORM OF NOMINATION

Name and address Of Nominee	Relationship With the member	Age	Share payable to each	Contribution On the happening of which the nomination shall become invalid	Name, Address, relationship and age of the person to whom the right of the nominee shall pass in the event of his/her predeceasing the member
(1)	(2)	(3)	(4)	(5)	(6)

I, (Name ……..hereby nominate the person (s) mentioned below to receive the amount of financial assistance under the Kerala State Co-operative Employees Welfare Board (Commission Agents) Scheme in the event of may death while in service or having become payable on my attaining the age of retirement may remain repaid at my death.

Note:- 1. Where an employee who has no family makes a nomination he shall specify in the column (5) that the nomination shall become invalid in the event of subsequently acquiring a family.

2. Share/Shares of the amount of column (4) should cover the whole amount. Dated this……..day of…….20…….at…….Signature of two witness

1. Countersigned **Signatures of employees**
2. Office seal **President**

FORM No. C-3

Rule 8 (a)

KERALA STATE CO-OPERATIVE EMPLOYEES WELFARE BOARD

(Ledger to be maintained by the society for commission agents)

1. Name of member :
2. Designation at the time of option :
3. Date of option :
4. Amount of monthly contribution :
5. Age and date of birth :

DETAILS OF RECOVERY

Sl.No.	Month to which it relates	Date of recovery	Amount recovered for the month	Amount recovered by the society	Date of remittance in the DCB	Total amount to his/her credit	Initial of Chief executive of the institutions	Initials of the Auditor
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

FORM No. C-4
Vide Rule 8 (b)
STATEMENT SHOWING THE AMOUNT RECOVERED FROM THE COMMISSION AGENTS AND REMITTED IN THE D.C.B. …….
……. FROM THE MONTH ……..
FORM No. C-4

Name and address of the Institution :

Sl.No.	Full Name Of the Commission Agent	Designation	Code No.	Month to which the recovery relates	Rate of Contribution	Contribution		
						By the member	By the Employer	Total Contribution
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Signature of the Chief Executive with Seal

DETAILS OF RECOVERY
FOR USE IN THE DISTRICT CO-OPERATIVE BANK

Name of the Branch of the District Co-operative Bank :
Amount remitted with the details :
Date :
Branch Manager

(For use in the Office of the Secretary – Treasurer of the Fund)

Date of Entry in the ledger :
Accountant

FORM No. C-5
APPLICATION FOR DEATH BENEFIT TO THE FAMILY
(Commission Agents)
(Vide Rule 10)

1. Full name and address of the applicant :
(Nominee of the member in Block letters)
2. Name and address of the member :
3. Code Number :
4. Name and address of the Institution in which
the employee was in service at the time of death :
5. Date of birth and age of member :
6 (a) Date of entry in service of the institution :
7. Date of option to come over to the scheme :
8. Rate of Contribution :
9. Whether was regularly effected :
10. (i) Total amount recovered till the time of death :
(ii) Total amount contributed by the institution :
(iii) Total amount to his/ her credit :
11. Whether nomination was accepted by the member :
12. Amount claimed :
Place :
Date :

Signature of the Applicant

I Certify that to the best of my knowledge and belief, the particulars given above are correct and also certify that the amount claimed is admissible as per rules approved in Government Order.
Place:
Date:
Name and full Signature of the Secretary of the Institution :
Name and full signature of the President and Board of Directors
1.President :
2. Director :
3. Director :

FORM No. C-6
(Vide rule-11)

APPLICATION FOR THE RETIREMENT BENEFIT (COMMISSION AGENTS) IN THE BOARD

1.Name and full address of the member :
(In block letters)
1.(a) Code Number of the member :
2. Name and address of the Institution :
in which he was employed at the time of
retirement/relief
3. Date of birth and age of the member :
4. Date of retirement/relief :
5. Date of option to come over to the scheme:
6. Rate of contribution :
7. Whether recovery was effected regularly :
8. Total amount recovered from the member :
9. Total amount contributed by Management:
10. Total amount to his/her credits :
11. Amount claimed :
Place:
Date: **Signature of the Applicant**

I certify that the particulars given above are correct and also certify that the amount claimed are correct.
Place:
Date:
Name and full Signature of the Secretary of the Institution :
Name and full signature of the president and Board of Directors
1.President :
2. Director :
3. Director :

FORM No. C-7
(Vide rule-6)
CERTIFICATE

Certified that Sri……..Son/ Daughter/ Wife of……. House…… Town…….. Desam……. Village……..Taluk…….District……...Now residing at…….House…….. Town …….. Village……. Taluk…… District…… in working as commission agent.
Details of the service:
Date of entry in service
As commission agent:
Date of retirement:

Secretary

FORM No.C-9
(Vide Rule 12)
APPLICATION FOR CASH AWARDS TO THE STUDENTS OF THE MEMBERS OF THE KERALA STATE CO-OPERATIVE EMPLOYEES WELFARE BOARD
(Commission Agents)

1.Name of the member (in Block letters) :
2. Name of the Student :
3. Name and address of the institution in which the member is working :
4. Code number of members and the institution :
5. Name of the institution in which the student appeared for the S.S.L.C. Examination with Register Number & Year :
6. Total marks secured in the S.S.L.C. Examination :
7. Whether a true copy of the S.S.L.C. Certificate and marklist duly attested by the Headmaster/ Headmistress of the Institution is attached :
8. Amount claimed :

I …….....hereby that the particulars given above are correct and genuine to the best of my knowledge and belief.

Place:
Date:

Full Signature of the member :
Name and full Signature of the Secretary of the Institution :
Name and full signature of the President Board of Directors
1.President :
2. Director :
3. Director :

Place:
Date:

FORM No.C-11
Vide Rule-14(c)
INDEMNITY BOND (COMMISSION AGENT)

This deed of indemnity is executed on this the……day of……two thousand…….....by Shri…….....(Name and address of the claimant)…….....(hereafter referred to as "the claimant") and (1) Sri…… .....(2) Sri……..... ....(name and address of the sureties)…….....(hereinafter referred to as the sureties)…….....in favour of the Kerala State Co-operative Employees Welfare Board a Board constituted under the Rules for the constitution and administration of Kerala State Co-operative Employees Welfare Board (hereinafter referred to as the Board)

WHEREAS a sum of Rs…….....(Amount in words) is due to the estate of the deceased Sri…..... .....…from the Board being the amount due under Kerala State Co-operative Employees Welfare Board Scheme (Commission agents)

WHEREAS the claimant has represented to the Managing Committee of the Board as per the Rules of the Board issued in G.O.No…….dated……..(which shall form part of this deed as if incorporated herein) he is legally entitled to receive the said sum, he being the legal heir of the deceased Sri…….and that the amount may be paid to him on executing an indemnity bond with two solvent sureties as hereinafter appearing;

AND WHEREAS The managing committee of Board has been pleased to sanction the sum as per proceedings dated……on behalf of the Board subject to the condition that he should execute an indemnity bond as hereinafter appearing to which the claimant and the sureties have agreed.

NOW THESE PRESENT WITNESSETH AS FOLLOWS :-

1.In condition of the payment of the said sum Rs……..to the claimant (the receipt of which the claimant hereby accepts and acknowledges) the claimant and the sureties hereby agree that they shall at all times indemnify and keep indemnified the Board from all claims, losses and demands if any made or which may be made and all actions and proceedings taken or which may be taken against the Board by any person whomsoever in respect of the payment of the said amount to the claimant.

2. The claimant and sureties hereby further agree that all sums found due to the board under or by virtue of the bond shall be recoverable jointly and severally from them, and their properties, movables and immovables under the provisions of the Revenue Recovery Act for the time being in force as the though such sums are arrears of Public Revenue due on land or such other manner as the Board may deem fit.

3. The liability of the sureties under this deed co-extensive with that of the claimant and shall not be impaired or affected by any variation in the terms and conditions herein contained or the Board, giving him or any other indulgence to the claimant.

IN WITNESS WHERE OF the Claimant and sureties have unto set their hands the day and year first above written.

Signed by Sri…….....(bounden)

In the presence of witness:

1.

2.

Signed by Sri…….....

1.

2.

CIRCULARS

The Circulars included in the Sahakarana Sarkular Samaharam are not reproduced in this volume. However, relevant portion of the index of that book is furnished below. Recent circulars follow this index.

The circulars under funds are classified as shown below.

1. Investments in Banks by Co-operatives
2. Other Investments
3. Utilisation of General Fund
4. Profit Distribution
5. Fluid Resources
6. Insurance
7. Opening of Branches
8. Welfare Measures to Emplyees
9. Credit Activities
10. Allied Activities
11. Non-credit Activities

1. INVESTMENTS IN BANKS BY CO-OPERATIVES

Number	Subject	Page
11/74	Investment of funds of Co-operatives-Instructions	101
80/80	Investment of funds of Co-operative in Commercial Banks-Instructions issued.	103
19/82	Urban Co-op: Banks-Investment of surplus funds-Instructions issued-regarding.	105
42/82	Investment of funds of Primary Agriculture Co-op:Societies/Banks in commercial banks Instructions issued.	106
39/89	പ്രാഥമിക സഹകരണസംഘങ്ങൾ ബാങ്കുകൾ ഫണ്ടുകൾ നിക്ഷേപിക്കുന്നതു സംബന്ധിച്ച്.	106
24/93	Investment of surplus liquid assets by District Co-operative Banks in Call/Short term Deposits of Commercial Banks-Further instructions issued.	108

1. INVESTMENTS IN BANKS BY CO-OPERATIVES

No.CB(1) 33540/2000 Officer of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 29-12-2000

CIRCULAR No. 54/2000

Sub : **Co-op: Department-Unautherised investment of funds by Co-operatives in Commercial Banks - Instructions - Regarding.**

Ref : **1) This Office Circular No. 44/91 and 5/95**
2) This Office letters No.CB(1) 15856/2000 dated 6-6-2000
3) This Office No.CB(1) 33540/2000 dated 16-8-2000

Directions was given to all the Primary Agricultural Credit Societies and District Co-operative Banks not to invest or deposit their funds in Commercial Banks violating provisions in the Kerala Co-operative Societies Act 1969, as per the letter cited above. Direction was also given to all Joint Registrars to watch such cases and to report with immediate effect. But inspite of all these instructions, it is noted that Primary Agricultural Credit Societies and District Co-operative Banks are depositing their funds in the Commercial Banks of all types, other co-operative societies etc., violating the provisions of Kerala Co-operatives Societies Act and the direction of Registrar of Co-operatives Societies.

This has caused considerable difficulties to the Co-operatives Credit system and is detrimental to the orderly development of the co-operative sector. Hence all Primary Agricultural Credit Societies and District Co-operative Banks are directed not to invest their funds with commercial banks without the prior permission of the Registrar of Co-operatives Societies. The deposits already made shall be withdrawn from such banks on maturity of the deposit and the amount withdrawn shall be deposited with the District Co-operatives Banks / State Co-operatives Bank as the case may be. No inter-bank transactions among Primary Agricultural Credit Societies and District Co-operatives Banks are allowed and Primary Agricultural credit Societies and District Co-operative Banks are not allowed to invest their funds in other co-operative institutions without the permission of the Registrar of Co-operative Societies. Co-operative Banks coming under the Banking Regulation Act are also not allowed to make their deposits in non-banking financial institutions.

In view of the request made by come District Co-operative Banks that deposits of some amounts in commercial banks are necessary for operational reasons, District Co-operative Banks are allowed to deposit funds in commercial banks not exceeding 15% of the funds deposited in the Kerala State Co-operative Bank with the prior approval of the Joint Registrar's concerned on a case to case basis. Before approving such deposits the Joint Registrars will satisfy themselves that the percentage is not exceeded.

All the primary Agricultural Credit Societies and the District Co-operative Banks shall scrupulously follow these instructions and the Joint Registrar of the districts concerned shall ensure that the banks are following these instructions strictly. Joint Registrars are directed to invoke rule 176 in case the Primary Agricultural Credit Societies and District Co-operative Banks are acting against the directions of Registrar of Co-operative Societies contained in this circular. In cases, where the chief executives are making any deposits without the permission of the Board of Directors the shall be instructed to initiate disciplinary action against those officers. Any violations should also be brought to the notice of Registrar of Co-operative Societies. A monthly report about compliance, violations etc., will be sent by the Joint Registrars.

All Joint Registrars and General Manager of District Co-operative Banks shall acknowledge the receipt of this circular.

Dharamveer
Registrar of Co-operative Societies

No. CB (1) 33540/2000 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 30.1.2001

CIRCULAR NO. 4/2001

Sub **: Co-operative Department-Unauthorised investment of funds by Urban Co-operative Banks, in commercial Banks-in structons regarding.**

Ref : **1) This office circular No. 44/91 and 5/95**
2) This office Letter No. Cb (1) 15856/2000 dated 6-6-2000
3) This office Lr. No. CB (1) 33540/2000 dated 16-8-2000
4) This office circular No. 54/2000 dated 29-12-2000

In the Circular 4th cited all the Primary Agriculatural Credit Societies and District Co-operative Banks were directed not to invest their funds with commercial Banks without prior permission of the Registrar of Co-operative Societies. They were also instructor to withdraw the deposies already made, from such banks on maturity of the deposit and the amount to be deposited in District Co-operative Banks and Kerala State Co-operative Banks as the case may be, werein the Central Co-operative Banks were erroneously anitted. so it is airectea that the Circular No. 54/2000 dated 29-12-2000 is applicable to all the Urban Co-operative Banks also and they shall follow the instructions and directions contained in it strictly.

Dharamveer
Registrar of Co-operative Societies

2. OTHER INVESTMENTS

Number	Subject	Page
49/82	ഹരിജന/ഗിരിജന സഹകരണസംഘങ്ങൾ-കെട്ടിട നിർമ്മാണത്തിന് വസ്തു വാങ്ങൽ-അഡ്വാൻസ് തുക നൽകുന്നതു സംബന്ധിച്ച്.	109
35/83	Purchase of land/building by Co-operative Institutions-instruction issued-regarding.	109
26/85	Co-operative Societies-Construction of buildings-Guidelines issued	110
45/86	പ്രാഥമിക കാർഷിക വായ്പ സഹകരണ സംഘങ്ങൾ-കെട്ടിട നിർമ്മാണത്തിനു പൊതുധനം നിക്ഷേപിക്കുന്നതു സംബന്ധിച്ച നിർദ്ദേശങ്ങൾ.	111
31/89	Co-op: Societies-purchase or lease of land or the acquisition, construction or renewal of building and disposal of immovable property with the prior sanction of Registrar-non-compliance of the provisions of Rule 54 of KCS Rules, 1969-Instructions issued.	113
4/90	Co-operative Department-NCDC III Co-op: Storage Project-construction of godown-Utilisation of General Fund/building Fund by societies-Instruction issued.	114
23/98	സഹകരണം-പ്രാഥമിക കാർഷികവായ്പ സഹകരണസംഘങ്ങൾ നടത്തുന്ന ചെലവുകൾ ബഡ്ജറ്റ് വിഹിതത്തിലധികരിക്കാതിരിക്കുന്നത് സംബന്ധിച്ച നിർദ്ദേശം.	115
50/2000	Co-operation-Procedure for building construction by co-operatives-Partial modification-Instructions issued-Regarding.	116

നമ്പർ. സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി

സർക്കുലർ നമ്പർ 32/2000

വിഷയം: **സഹകരണ സംഘങ്ങളിലെ കമ്പ്യൂട്ടർവൽക്കണം നടപടി ക്രമങ്ങൾ ലഘൂകരിക്കുന്നതിനുള്ള നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്.**

സൂചന:**1. ഈ ആഫീസിലെ 18.9.1993 ലെ 59/93 നമ്പർ സർക്കുലർ.**

2. ഈ ആഫീസിലെ 4.5.1998 ലെ 13/98.ാം നമ്പർ സർക്കുർ.

പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ കമ്പ്യൂട്ടർവൽക്കരിക്കുന്നത് സംബന്ധിച്ച്, മാർഗ്ഗനിർദ്ദേശങ്ങൾ സൂചനയിലെ സർക്കുലറുകൾ പ്രകാരം പുറപ്പെടുവിച്ചിരുന്നു. അതനുസരിച്ച് സംഘങ്ങൾ കമ്പ്യൂട്ടർവൽക്കരിക്കുന്നതിനുള്ള അനുവാദം ജില്ലകളിലെ ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാർമാരുടെ ശുപാർശകളുടെ അടിസ്ഥാനത്തിൽ ഈ ആഫീസിൽ നിന്നാണ് നൽകി വരുന്നത്. ഇത് കാലതാമസത്തിനിടയാക്കുന്നു എന്നു കാണുന്നു. പ്രവർത്തന വികസനവും കസ്റ്റമർ സർവ്വീസും മെച്ചപ്പെടുത്തുന്നതിനും ഉറപ്പു വരുത്തുന്നതിനും ത്വരിത ഗതിയിലുള്ള കമ്പ്യൂട്ടർവൽക്കരണം എല്ലാത്തരം സഹകരണ സംഘങ്ങളിലും ഒഴിച്ചു കൂടാനാവാത്തതാണ് ഇതിനായി 2 കോടിയിൽപരം രൂപ പ്രവർത്തന മൂലധനമോ വിറ്റുവരവോ ഉള്ള എല്ലാ സംഘങ്ങളുടെയും കമ്പ്യൂട്ടർവൽക്കരണത്തിനുള്ള അപേക്ഷ അനുവദിക്കുവാൻ ജില്ലകളിലെ ജനറ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാർമാരെ ഇതിനാൽ അധികാരപ്പെടുത്തുന്നു.

സംഘങ്ങളുടെ പ്രവർത്തനത്തിന് കമ്പ്യൂട്ടർവൽക്കരണം ആവശ്യമാണെന്ന് കാണുന്ന പക്ഷം അവ പരിശോധിച്ച് ഉത്തരബോദ്ധ്യം വന്ന് അത്തരം സംഘങ്ങൾക്കു പ്രവർത്തനമൂലധനം, വിറ്റുവരവ് സംബന്ധിച്ച് പരിധിയിൽ നിന്നും ഉചിതമെങ്കിൽ ഒഴിവ് നൽകിയും കമ്പ്യൂട്ടർവൽക്കരണത്തിന് ജോയിന്റ് രജിസ്ട്രാർക്ക് തന്നെ അനുമതി നൽകാവുന്നതാണ്.

കെ. ചന്ദ്രസേന പ്രസാദ്
സഹകരണ സംഘം രജിസ്ട്രാറുടെ ചാർജ് വഹിക്കുന്ന
അഡിഷണൽ രജിസ്ട്രാർ കൺസ്യൂമർ

No.G.(1) 18799/2000 Office of the Registrar of Co-operative Societies,
Thiruvananthapuram, Dated 20-12-2000

CIRCULAR No. 50/2000

Sub:- **Co-operation-procedure for building construction by Co-operatives-partial modification-Instructions issued-regarding.**

Reg:- **1.Circular No. 35/83, dated 12-7-83 of Registrar of Co-operatives Societies**
2. Circular No. 26/85 dated 6-6-85 of Registrar of Co-operative Societies

3. Government Letter No. 10964/B1/2000/Co-op dated 2-12-2000

As per the Circulars referred to above, instructions have been issued with regard to the procedure for purchase of land or building and construction of buildings by Co-operative Institutions. In the circular 1st cited, it was instructed that the valuation of the building should be done by the Public Works Department. As against this, representations have been received from societies that it is cumbersome job to get Valuation Certificate form Public Works Department Authorities.

Regarding the approval of plan and estimate and issue of Valuation Certificate for building construction by Co-operatives. Government vide letter 3rd cited have instructed to modify the circular partially.

Therefore, the above instruction in Circular No.35/83, Ist cited is partially modified to the effect that in the procedure for approval for building construction by Co-operatives with own fund or loan from non-Government Institutions, the plan and estimate will be scrutinised and approved by the Engineers of Government and Quasi Government Institutions, Local Bodies, Statutory Boards or any other Government Sponsored Organisation and retired Engineers, Registered/licenced Engineers and Architectural Consultants on completion of construction of the building, Valuation Certificate will be issued by Engineers in Government Department or Local Bodies not below the rank of Assistant Engineer(Buildings). This modification is also applicable to the instructions already issued in Circular No.26/85.2nd cited.

The above instruction shall be strictly followed. The Joint Registrars of Co-operative Societies (General) are requested to bring the contents of this circular to the notice of all Co-operative Institutions for strict compliance.

Dharamveer
Registrar of Co-operative Societies

നമ്പർ. സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി

സർക്കുലർ നമ്പർ 6/2003

വിഷയം : **കേരള സ്റ്റേറ്റ് കോ.ഓപ്പറേറ്റീവ് ഹോസ്പിറ്റൽ കോംപ്ലക്സ് ആന്റ് സെന്റർ ഫോർ അഡ്വാനിസ്ഡ് മെഡിക്കൽ സർവ്വീസസ് ലിമിറ്റഡ് നമ്പർ 438 പരിയാരം സ്ഥിരനിക്ഷേപത്തുക സംബന്ധിച്ച്**

സൂചന : **1. 16.9.02 നു സർക്കാർ തലത്തിൽ കൂടിയ യോഗതീരുമാനം**

2. മേൽ സഹകരണസംഘത്തിലെ മാനേജിംഗ് ഡയറക്ടറുടെ 16.1.2003 ലെ കത്ത്

4386.ാം നമ്പർ കേരള സ്റ്റേറ്റ് കോ ഓപ്പറേറ്റീവ് ഹോസ്പിറ്റൽ കോംപ്ലക്സ് ആന്റ് സെന്റർ ഫോർ അഡ്വാൻസ്ഡ് മെഡിക്കൽ സർവ്വീസ്ഡ് ലിമിറ്റഡിൽ സ്ഥിര നിക്ഷേപം നടത്തിയിട്ടുള്ള പ്രാഥമിക സംഘങ്ങളുടെ നിക്ഷേപത്തുക തിരിച്ച് നൽകുന്നത് സംബന്ധിച്ച് ബന്ധപ്പെട്ടവരുടെ ഒരു യോഗം സർക്കാർ തലത്തിൽ കൂടി പ്രസ്തുത യോഗത്തിലെ തീരുമാനപ്രകാരം താഴെപ്പറയുന്ന വിവരങ്ങൾ അറിയിക്കുന്നു.

നിക്ഷേപവും പത്തരശതമാനം പലിശയും ചേർത്ത് തുക ഓഹരിയായി മാറുന്നതിന് നടപടി സ്വീകരി ക്കാവുന്നതാണ്. ഓഹരിയെടുക്കാൻ താൽപര്യമില്ലാത്ത സംഘങ്ങൾക്ക് സ്ഥിരനിക്ഷേപം നടത്തിയ തീയതി മുതൽ ടി. തുകയ്ക്ക് 10.5% പലിശ സഹിതം സ്ഥിരനിക്ഷേപം പുതുക്കി നിശ്ചയിക്കാവുന്നതാണെന്ന സൂചന (2) ലെ കത്ത് പ്രകാരം ടി. സഹകരണ സംഘത്തിലെ മാനേജിംഗ് ഡയറക്ടർ അറിയിച്ചിരിക്കുന്നു

ടി.സഹകരണ സംഘത്തിൽ സ്ഥിരനിക്ഷേപം നടത്തിയിട്ടുള്ള സഹകരണ സംഘങ്ങളുടെ ലിസ്റ്റ് ഇതോടൊപ്പം അയക്കുന്നു. താങ്കളുടെ ജില്ലയിൽ പ്രവർത്തിക്കുന്ന, ഇപ്രകാരം നിക്ഷേപം നടത്തിയിട്ടുള്ള സഹകരണ സംഘങ്ങളുടെ ഒരു യോഗം വിളിക്കുകയും മേൽപ്പറഞ്ഞ ടി സഹകരണ സംഘങ്ങളുമായി ചർച്ച ചെയ്ത് ഉചിതമായ ഒരു പരിഹാരം കാണേണ്ടതും ആ വിവരം കേരളാ സ്റ്റേറ്റ് കോ.ഓപ്പറേറീവ് ഹോസ്പിറ്റൽ കോംപ്ലക്സ് മാനേജിംഗ് ഡയറക്ടറെ രേഖാമൂലം അറിയിക്കേണ്ടതുമാണ്. താങ്കൾ സ്വീകരിച്ച നടപടിക്രമങ്ങൾ ഈ ഓഫീസിലേക്ക് അറിയിക്കേണ്ടതുമാണ്

രവീന്ദ്രരാജു

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

3. UTILISATION OF GENERAL FUND

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46/99	Transfer of funds to Co-operative Academy of Professional Education (CAPE) from District Co-operative Banks and Kerala State Co-operative Bank.	636

No.MP(5)21840/99 Office of the Registrar of Co-operative Societies.
Trivandrum, dated, 20-1-2000

CIRCULAR No. 6/2000

Sub: **Co-operative Institutions- Practice of giving gift to its members - instructions issued.**

Ref: **1) This office Circular No.45/80dtd.24.6.80**
2) Government Lr.5675/A3/99/Co-op:dtd.7.8.1999.

In the Circular instructions issued as per reference cited Ist it was clarified that the ex-gratra distribution of gifts to the members do not fall within any of the clause(a) to (e) of Sec:56, of KCS Act and it is not therefore competent for the committee to incur any expenditure out of net profit for such purposes. Thus the giving of gifts to the members is against the provisions of the KCS Act and hence it was barred.

Certain instances are noticed by the undersigned that some institutions are trying to defect the spirit of these Circular instructions. The practice of giving gifts to the members is continuing by these Co-operative institutions by charging under the head of expenditure on advertisement. The Co-operative institutions, which plummet into heavy losses are also giving gifts adopting the above pattern. Hence Government have directed to curb the tendency to incur this kind of unproductive expenditure.

In the circumstances all Co-operative institutions are directed to strictly adhere to the Circular instructions issued from this office vide Circular first dated. Any deviation from these instructions will entail strict action as per rules.

Registrar of Co-operative Societies

No. MT (3) 46675/2000 Office of the Registrar of Co-operative Societies,
Thiruvananthapuram, Dated 27.4.2001

CIRCULAR NO. 21/2001

Sub **: Mobilisation of finance for CAPE - contribution from common Good Fund permission to all Co-operative in the state regarding**

Ref **: Lr. No.A7/CAPE/3686/ dated 25.11.2000 of the CAPE director**

As per the reference dated the Director of Co-operative Academy of professional Education has requested to give permission to all Co-operative institutions in the State to contribute the maximum possible amounts from their common Good Fund to the Co-operative Accademy of porofessional Education.

As per section 56(2)(d) of KCS Act 1969 a Society may utilise an amount not exceeding ten percent of the net profit for any charitable purpose. Co-operative Accademy of Professional Education is a society registered under Travancore Cochin Literacy societies and Charitable Societies Act.

In the circumstances mentioned above permissive sanction is here by accorded to all Co-operative institutions in the state which are coming under the administrative control of Registrar of Co-operative to contribute maximum possible amounts under Section 56 (2) (d) of the KCS Act, 1969 from their "Common Good Fund" to the Co-operative Accademy of professional Education.

Dharam Veer
Registrar of Co-operative Societies

കേരള സർക്കാർ

സംഗ്രഹം

ധനകാര്യ (പരിശോധനാ വിഭാഗം നോൺ ടെക്നിക്കൽ) വകുപ്പ് സർക്കാർ വാഹനങ്ങളുടെ ദുരുപയോഗം തടയൽ പരിശോധന സംബന്ധിച്ച് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

ധനകാര്യ പരിശോധനാ വിഭാഗം നോൺ ടെക്നിക്കൽ(എ) വകുപ്പ്

സ.ഉ.(പി) നമ്പർ 1213/2000/ധന തിരുവനന്തപുരം 2000 ഒക്ടോബർ 12.

സൂചന : 1. 13.11.1970 ലെ സ.ഉ.(പി) നമ്പർ 803/70/ധന
2. 18.8.1998 ലെ സ.ഉ.(പി) നമ്പർ 1934/98/ധന

ഉത്തരവ്

സർക്കാർ വാഹനങ്ങൾ ജീവനക്കാർക്ക് സ്വകാര്യ ആവശ്യത്തിന് ഒഴിച്ചുകൂടാൻ കഴിയാത്ത സാഹചര്യങ്ങളിൽ ഉന്നത അധികാരികളുടെ രേഖാമൂലമുള്ള അനുവാദത്തോടെ സൂചനയിലെ ഉത്തരവിൻപ്രകാരം ഉപയോഗിക്കാവുന്നതാണ്. എന്നാൽ സർക്കാർ വാഹനങ്ങൾ ഷോപ്പിംഗ്, സിനിമ, മാർക്കറ്റ് ആരാധനാലയങ്ങൾ, വിവാഹം, കുട്ടികളെ വിദ്യാലയങ്ങളിൽ എത്തിക്കുക തുടങ്ങിയ സ്വകാര്യ ആവശ്യങ്ങൾക്ക് ഉപയോഗിക്കുവാൻ പാടില്ല. ഇത്തരത്തിൽ സംസ്ഥാനത്ത് ഒട്ടാകെ സർക്കാർ വാഹനങ്ങളുടെ ദുരുപയോഗം തടയുന്നതിന് നിലവിലുള്ള ചട്ടങ്ങൾ കൂടുതൽ കർശനമാക്കേണ്ട ആവശ്യകത സർക്കാരിന് ബോദ്ധ്യപ്പെട്ടിരിക്കുന്നു.

മേൽ സാഹചര്യത്തിൽ പോലീസ്, ആരോഗ്യം, കൃഷി, പൊതുമരാമത്ത്, ജലസേചനം ഉൾപ്പെടയുള്ള എല്ലാ സർക്കാർ വകുപ്പുകളുടെയും വാഹനങ്ങൾ ആഫീസ് ആവശ്യത്തിനല്ലാതെ ഉപയോഗിക്കുന്നുണ്ടോയെന്ന് പരിശോധിക്കുവാൻ ധനകാര്യ പരിശോധന (നോൺടെക്നിക്കൽ) വിഭാഗത്തെ നിയോഗിച്ചുകൊണ്ട് ഉത്തരവാകുന്നു.

പോലീസ് ഡയറക്ടർ ജനറൽ ഉൾപ്പെടെ എല്ലാ വകുപ്പദ്ധ്യക്ഷൻമാരും വാഹനങ്ങളുടെ പരിശോധനയ്ക്ക് ധനകാര്യപരിശോധനാ വിഭാഗവുമായി സഹകരിക്കുവാൻ വേണ്ട നിർദ്ദേശം തങ്ങളുടെ വകുപ്പിലെ ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥർക്ക് അടിയന്തിരമായി നൽകേണ്ടതാണ്.

ഗവർണ്ണറുടെ ഉത്തരവിൻപ്രകാരം
വിനോദ്റായ്
ധനകാര്യ പ്രിൻസിപ്പൽ സെക്രട്ടറി

നമ്പർ. ജി (1) 24264/2000 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം തീയതി 17.8.2001

സർക്കുലർ നമ്പർ 32/2001

വിഷയം : **സഹകരണ വകുപ്പ് സഹകരണ സ്ഥാപനങ്ങൾ വ്യയനിയന്ത്രണം പാലിക്കുന്നതു സംബന്ധിച്ചമാർഗ്ഗ നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു**

സൂചന : **1. രജിസ്ട്രാറുടെ 71/82 നമ്പർ സർക്കുലർ തിയതി. 3.1.1983**
2. രജിസ്ട്രാറുടെ 3/93 നമ്പർ സർക്കുലർ തിയതി. 9.2.93
3. രജിസ്ട്രാറുടെ 19/94 നമ്പർ സർക്കുലർ തിയതി 9.6.94
4. രജിസ്ട്രാറുടെ 22/99 നമ്പർ സർക്കുലർ തിയതി 29.5.99
5. രജിസ്ട്രാാറുടെ 6/2000 നമ്പർ സർക്കുലർ തിയതി 20.1.2000
6. 5.6.2000 ലെ ജി.ഒ. (ആർ.ററി) നമ്പർ 240/2000 സഹ സർക്കാർ ഉത്തരവ്
7. സർക്കാരിന്റെ 19.5.2000 ലെ 39142/പൊളിററിക്കൽ 2/ജി.എ.ഡി നമ്പർ സർക്കുലർ

സഹകരണ സ്ഥാപനങ്ങൾ അവയുടെ ചെലവുകൾ നിയന്ത്രിക്കുന്നതിനാവശ്യമായ പ്രായോഗിക നിൾദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കണമെന്ന് സൂചന 6 പ്രകാരമുളള സർക്കാർ ഉത്തരവിൽ നിർദ്ദേശിച്ചിരുന്നു. സാമ്പത്തി അച്ചടക്കവും ചെലവു ചുരുക്കലും സഹകരണ സ്ഥാപനങ്ങളുടെ ക്രമപ്രകാരമുളള വളർച്ചയ്ക്ക് അനിവാര്യമായതിനാൽ ആയതിനാവശ്യമായ താഴെപറയുന്ന മാർഗ്ഗ നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. സഹകരണ ചട്ടങ്ങളിലെ 182ാം ചട്ടത്തിലെ അനുബന്ധം 111ൽ വ്യവസ്ഥ ചെയ്തിട്ടുളള പ്രകാരം ബന്ധപ്പെട്ട അധികാരി അനുവദിച്ച തസ്തികകളിൽ മാത്രമേ നിയമനങ്ങൾ നടത്തുവാൻ പാടുളളു.

2. സംഘങ്ങളുടെ പൊതു നന്മ ഫണ്ടിൽ നിന്നും മാത്രമേ സഹകരണ നിയമത്തിലെ വ്യവസ്ഥയ്ക്ക് വിധേയമായി സംഭാവന ഇനത്തിൽ തുക ചെലവഴിക്കാൻ പാടുളളു.

3. തൻചെലവുകളും സിൽബന്തി ചെലവുകളും ബഡ്ജററിൽ വക കൊളളിച്ചുളള തുകയ്ക്ക് അനുസ്യതമായി പരിമിതപ്പെടുത്തണം.

4. സംഘത്തിന്റെ പൊതുവായ പ്രവർത്തനം വിപുലീകരിക്കുന്നതിന് ആവശ്യമായ ബിസിനസ് ഡെവലപ്മെന്റ് പ്ലാൻ തയ്യാറാക്കി നടപ്പിലാക്കേണ്ടതാണ്.

5. ഭരണസമിതി അംഗങ്ങൾക്കുളള സിററിംഗ് ഫീസും യാത്രാബത്തയും പ്രസിഡന്റുമാർക്കുളള ഹോണറേറിയവും മററും രജിസ്ട്രാർ കാലാകാലങ്ങളിൽ നിശ്ചയിച്ചു വരുന്ന നിർദ്ദേശങ്ങൾക്കും പരിധിയ്ക്കും വിധേയമായേ അനുവദിക്കാവൂ. പൊതു യോഗത്തിൽ പങ്കെടുക്കുന്നവർക്കുളള ഭക്ഷണചെലവ് സംബന്ധിച്ച് സൂചന നാലിലെ സഹകരണ സംഘം രജിസ്ട്രാറുടെ സർക്കുലർ നിർദ്ദേശങ്ങൾ കർശനമായി പാലിക്കേണ്ടതാണ്. പാരിതോഷികങ്ങൾ നൽകുന്നതു സംബന്ധിച്ച് രജിസ്ട്രാറുടെ സൂചന അഞ്ചിലെ സർക്കുലർ നിർദ്ദേശങ്ങൾ പാലിക്കേണ്ടതാണ്.

6. സാമ്പത്തിക ശേഷിക്ക് അനുസ്യതമായി വ്യാപാര/പ്രവർത്തന ആവശ്യത്തിലേക്ക് വേണ്ടി മാത്രമേ വസ്തു വാങ്ങനും, കെട്ടിടം നിർമ്മിക്കാനും

വാഹനങ്ങൾ വാങ്ങാനും പാടുള്ളു. ഇതിലേക്കായി നിലവിലുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങൾ കൃത്യമായി പാലിക്കേണ്ടതുണ്ട്.

7. തെരഞ്ഞെടുപ്പു ചെലവുകൾ പരിമിതപ്പെടുത്തേണ്ടതും ഇത് സംബന്ധിച്ച് രജിസ്ട്രാറുടെ സൂചന രണ്ടിലേയും മുന്നിലേയും സർക്കുലർ നിർദ്ദേശങ്ങൾ പാലിക്കേണ്ടതുമാണ്. തെരഞ്ഞെടുപ്പുദ്യോഗസ്ഥർക്കുള്ള പ്രതിഫലം സർക്കാർ കാലാകാലങ്ങളിൽ നിശ്ചയിക്കുന്ന നിരക്കിൽ മാത്രമേ നൽകാവൂ.

8. സഹകരണസംഘം ആക്ടും ചട്ടങ്ങളും സംഘം ബൈലാ വ്യവസ്ഥകൾ പ്രകാരവും ഭരണസമിതിക്കെതിരെയും ജീവനക്കാർക്കെതിരെയും രജിസ്ട്രാർ സ്വീകരിക്കുന്ന നടപടിക്കെതിരെ സംഘം ചെലവിൽ കേസുകൾ നടത്തുവാൻ പാടില്ല.

9. നഷ്ടത്തിൽ പ്രവർത്തിക്കുന്ന സംഘങ്ങൾ, അതിനുള്ള കാരണങ്ങൾ കണ്ടുപിടിച്ചും പരിഹാരമുണ്ടാക്കിയും പുതിയ പദ്ധതികൾ തയ്യാറാക്കി പ്രവർത്തനമേഖല വിപുലമാക്കിയും ലാഭകരമായി മാറാൻ ആവശ്യമായ നടപടികൾ സ്വീകരിക്കണം.

10. വാഹനങ്ങൾ വാടകക്കെടുന്ന വകയിലും പെട്രോൾ ഇനത്തിലുമുള്ള ചെലവുകൾ പരമാവധി കുറയ്ക്കണം. ഈ ആവശ്യത്തിലേക്കായി വാർഷിക ബഡ്ജറ്റിൽ പ്രത്യേക തുക വകയിരുത്തേണ്ടതാണ്. വാഹനങ്ങളെ സംബന്ധിച്ച ലോഗ് ബുക്ക്, ട്രിപ്പ്ഷീറ്റ് എന്നിവ കൃത്യമായി സൂക്ഷിക്കേണ്ടതാണ്. മൈലേജ് സർട്ടിഫിക്കറ്റ് സൂക്ഷിക്കുകയും അതനുസരിച്ചുള്ള പരിശോധനകൾ നടത്തുകയും വേണം.

11. സഹകരണ സംഘങ്ങൾ കോൺഫറൻസുകൾക്കും, പഠനയാത്രകൾക്കും മറ്റും പ്രതിനിധികളെ സംസ്ഥാനത്തിനും ഇന്ത്യക്കും പുറത്ത് അയയ്ക്കുന്നതു സംബന്ധിച്ച് സഹകരണ രജിസ്ട്രാറുടെ സൂചന ഒന്നിലെ സർക്കുലർ നിർദ്ദേശങ്ങൾ സംസ്ഥാനത്തെ അപ്പക്സ് കേന്ദ്ര സഹകരണ സംഘങ്ങൾ ഉൾപ്പെടെയുള്ള എല്ലാ സഹകരണ സ്ഥാപനങ്ങൾക്കും ബാധകമായിരിക്കും ഇതിലെ നിർദ്ദേശങ്ങൾ കർശനമായി പാലിക്കേണ്ടതാണ്.

12. കോൺഫറൻസുകൾ ഉൾപ്പെടെ സൽക്കാരങ്ങൾക്കുള്ള ചെലവുകൾ വളരെ പരിമിതപ്പെടുത്തേണ്ടതാണെന്ന സൂചന ഏഴിലെ സർക്കുലറിൽ നിർദ്ദേശിച്ചിട്ടുണ്ട്. ആയതിനാൽ സഹകരണ സ്ഥാപനങ്ങൾ മേൽ നിർദ്ദേശം കർശനമായി പാലിക്കേണ്ടതാണ്.

സഹകരണ വകുപ്പിലെ ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥർ ടി നിർദ്ദേശങ്ങൾ അവരവരുടെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സ്ഥാപനങ്ങളുടെ ശ്രദ്ധയിൽ കൊണ്ടുവരേണ്ടതും അവ പരിപാലിക്കപ്പെടുന്നു എന്ന് ഉറപ്പു വരുത്തേണ്ടതുമാണ്.

കെ. ചന്ദ്രസേനപ്രസാദ്
സഹകരണ സംഘം രജിസ്ട്രാറുടെ ചുമതല വഹിക്കുന്ന
അഡീഷണൽ രജിസ്ട്രാർ (ക്രെഡിറ്റ്)

No. MT (2) 2696/2002 Office of the Registrar of Co-operative Societies,
Thiruvananthapuram, Dated 25.1.2002

CIRCULAR No. 2/2002

Sub : **General permission to all Co-operative institutions in the State of Kerala for taking shares in 'COSTECH' Ltd. No.4435-regarding**

Ref **:- 1. Resolution No. 1 dated 12.11.2001 of the Board of Directors of 'COSTECH'**
2. Lr. No. CRB 503/2002 dated 18.1.2002 of joint Registrar (General), Thiruvananthapuram
3.Note order of the Registrar of Co-operative Societies dated 24.1.2002

The Board of Directors of 'COSTECH' has requested to accord permissive sanction to all Co-operative institutions in the State to take share in the above society vide Resolution No. 1 Dated, 12.11.2001, As per clause 5 (11) of the byelaws of the above society all Co-operative Institutions subcribe share in the society.

According to Section 57(c) of the Kerala Co-operative Societies Act 1969, Co-operative Societies can invest in the shares securities of any other society approved for the purpose by the Registrar. The Joint Registrar (General), Thiruvananthapuram has also recommended the proposal. The proposal was examined in detail with reference to the Provisions of the KCS Act.

In the circumstances all the Co-operative Societies coming under the administrative control of the Co-operative Department except those coming under the purview of Banking Regulation Act are permitted to take shares in the Kerala State Co-operative Institute of Information Technology and Commmunications Ltd. No. 4435 subject to the bye-laws provisions and Board Resolution of the Societies concerned.

J. Raveendra Raju
Additional Registrar (Consumer)

No.G(2) 2167/2002 Office of the Registrar of Co-operative Societies,
Thiruvananthapuram, Dated, 17.04.2002

CIRCULAR. No. 13/2002

Sub **: Co-operative Department - Indian Red Cross Society Kerala State Branch - Building Fund - Donation from Common Good Fund from the Co-operative Institutions - permission issued - regarding**

Ref **: Letter No. IRCS/KSB/8/1280/2001 dated 20.10.2001 from the General Secretary, Indian Red CROSS Society, Kerala State Branch, Thiruvananthapuram**

The General Secretary, Indian Red Cross Society, Kerala State Branch has informed that the Indian Red Cross Society is a charitable Service Organisation exemplary service to the public and the poor classes and they are undertaking promotion of health by initiating prevention of contagious diseases by organising free Medical Camps, imparting health training programmes, blood grouping, blood donation awareness and home nursing service. And also informed that the major draw back of the State branch is the inadequacy of a building with all the infrastructure and facilities. They

propose to procure a building in the near future but lack of sufficient fund is the major draw back. The General Secrtary has requested to recommend all the Co-operative Institutions under the administrative control of Registrar of Co-operative Societies to donate liberally to the building fund their Common Good Fund.

Considering the request of the General Secretary of the Red Cross Society, Kerala State Branch, Thiruvananthapuram and the venture is a noble one, the Co-operative Institutions coming under the Administrative Control of Registrar of Co-operative Societies in the state are permitted to contribute for the above cause from out of their Common Good Fund created Under Section 56 (2) (d) of the KCS Act 1969. The Joint Registrar (General) in the districts are requested to instruct all the Co-operative Institutions under their control suitably.

James Varghese
Registrar of Co-operative Societies

നമ്പർ സി.ജി. (2) 8531/2002 സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസ്, തിരുവനന്തപുരം, തീയതി 17.04.2002.

സർക്കുലർ നമ്പർ 14/2002

വിഷയം : **സഹകരണ വകുപ്പ് ശ്രീ. എൻ.കെ. ബാലകൃഷ്ണൻ മെമ്മോറിയൻ ചാരിറ്റബിൾ ഹോസ്പിറ്റൽ നീലേശ്വരം സഹകരണ സ്ഥാപനങ്ങളിൽ നിന്നും സാമ്പത്തിക സഹായം അനുവാദം നൽകുന്നത് സംബന്ധിച്ച്**

സൂചന : **ബഹുമാനപ്പെട്ട സഹകരണ വകുപ്പ് മന്ത്രിക്ക് 24.03.2002 ൽ എൻ.കെ. ബാലകൃഷ്ണൻ മെമ്മോറിയൽ ട്രസ്റ്റ് സമർപ്പിച്ച നിവേദനം**

ശ്രീ. എൻ.കെ. ബാലകൃഷ്ണൻ മെമ്മോറിയൽ ട്രസ്റ്റിന്റെ കീഴിൽ പ്രവർത്തിച്ചു വരുന്ന ശ്രീ.എൻ.കെ. ബാലകൃഷ്ണൻ മെമ്മോറിയൽ ചാരിറ്റബിൾ ഹോസ്പിറ്റൽ അദ്ദേഹത്തിന്റെ ജന്മദേശമായ നീലേശ്വരത്തിന്റെയും പരിസരപ്രദേശങ്ങളുടേയും ചികിൽസാ രംഗത്തുള്ള അപര്യാപ്തത കണക്കിലെടുത്ത് പാവപ്പെട്ട ജനങ്ങൾക്ക് ആശ്വാസം പകരുന്നതിനായി പ്രവർത്തിക്കുന്നു എന്ന് ശ്രീ. എൻ.കെ.ബി.എം.ട്രസ്റ്റിന്റെ ചെയർമാനും, സെക്രട്ടറിയും സൂചന നിവേദനത്തിൽ അറിയിക്കുന്നു. ടി. ആശുപത്രി എല്ലാവിധ ചികിൽസാ സൗകര്യങ്ങളോടുകൂടിയ കേരളത്തിലെ മേൽത്തരം ആശുപത്രികളിൽ ഒന്നായി ഉയർത്തുന്നതിനായി സഹകരണ സ്ഥാപനങ്ങളിൽ നിന്നും സാമ്പത്തിക സഹായം നൽകുവാൻ അനുവാദം നൽകണമെന്ന് സൂചനയിൽ അപേക്ഷിച്ചിരിക്കുന്നു.

മേൽ അപേക്ഷയുടെ അടിസ്ഥാനത്തിൽ മേൽ ആവശ്യത്തിലേയ്ക്കായി സഹകരണ സംഘം രജിസ്ട്രാറുടെ ഭരണനിയന്ത്രണത്തിനു കീഴിൽ വരുന്ന സഹകരണ സ്ഥാപനങ്ങൾ 1969 ലെ കേരള സഹകരണസംഘം നിയമത്തിലെ വകുപ്പ് 56(2) (ഡി) പ്രകാരം സൃഷ്ടിച്ചിട്ടുള്ള പൊതുനന്മാ ഫണ്ടിൽ നിന്നും സംഭാവന നൽകുവാൻ ഇതിനാൽ അനുവാദം നൽകുന്നു. ടി. വിവരം സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ അവരുടെ ഭരണനിയന്ത്രണത്തിൻ കീഴിൽ വരുന്ന എല്ലാ സഹകരണ സ്ഥാപനങ്ങളേയും അറിയിക്കേണ്ടതാണ്.

ജെയിംസ് വർഗ്ഗീസ് ഐ.എ.എസ്.
സഹകരണ സംഘം രജിസ്ട്രാർ

നമ്പർ എ (5) 42143/02 സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസ്, തിരുവനന്തപുരം, തീയതി 5.12.02

സർക്കുലർ നമ്പർ 51/2002

വിഷയം : **സഹകരണ വകുപ്പ് കേരള സംസ്ഥാന ഭാഗ്യക്കുറി അക്ഷയ നിധി സ്പെഷൽ ഭാഗ്യക്കുറി മുഖ്യമന്ത്രിയുടെ ദുരിതാശ്വാസനിധിയിലേക്കുള്ള ധനശേഖരണം സഹകരണ സ്ഥാപനങ്ങൾ വിൽപ്പന വിജയിപ്പിക്കുന്നതിനുള്ള നടപടികൾ നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്.**

സൂചന : **1. സർക്കാരിന്റെ 9.10.02 ലെ ജി.ഒ.(ആർ. ററി) 581/02/ജി.ഡി. നമ്പർ ഉത്തരവ്.**
2. ഭാഗ്യക്കുറി ഡയറക്ടറുടെ 6.11.02 ലെ കുറിപ്പ്
3. സർക്കാരിന്റെ 15.11.02 ലെ ജി.ഒ. (ആർ.ററി) 642/02/ഒ.ഡി.നമ്പർ ഉത്തരവ്
4. സംസ്ഥാനഭാഗ്യക്കുറി ഡയറക്ടറുടെ 21.11.02 ലെ എസ്. 1/15308/02/ എ.ഡി.എൽ നമ്പർ കത്ത്

മുഖ്യമന്ത്രിയുടെ ദുരിതാശ്വാസനിധിയിലേക്കുള്ള ധനശേഖരണാർത്ഥം, 'അക്ഷയനിധി' എന്ന നാമകരണം ചെയ്ത് നടത്തുന്ന കൈരളി ഭാഗ്യക്കുറിയുടെ 1073 ാംമത് സ്പെഷ്യൽ ഭാഗ്യക്കുറി, ടിക്കറിന്റെ വില്പന 21.10.02 ൽആരംഭിക്കുകയും 19.12.02 ൽ നറുക്കെടുപ്പ് നടത്തുകയുമാണ്. ടിക്കറ് ഒന്നിന് 50/ രൂപ വില വരുന്ന ടിക്കറ് വിൽപന പരമാവധി വർദ്ധിപ്പിക്കുന്നത് മുഖ്യമന്തിയുടെ ദുരിതാശ്വാസ നിധിയിലേക്കുള്ള ധനശേഖരണത്തിന് ആവശ്യമാണെന്നതിനാൽ, അക്ഷയനിധി സ്പഷ്യൽ ഭാഗ്യക്കുറിയുടെ വിജയത്തിന് എല്ലാ സഹകരണ സ്ഥാപനങ്ങളും, ജീവനക്കാരും പരമാവധി ടിക്കറ് ജില്ലാ ജനറൽ വിഭാഗം സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർമാരിൽനിന്നും വാങ്ങി സഹകരിക്കണമെന്ന് നിർദ്ദേശിക്കുന്നു.

എന്നാൽ പൊതുനന്മ ഫണ്ടുളള സഹകരണ സംഘം രജിസ്ട്രാറുടെ ഭരണനിയന്ത്രണത്തിലുളള സഹകരണ സ്ഥാപനങ്ങൾ ടി ആവശ്യത്തിന്, ടി ഫണ്ടിൽ നിന്ന് തുക കണ്ടെത്താവുന്നതാണ്. അപ്രകാരം ടി ഫണ്ടിൽ നിന്ന് വാങ്ങുന്ന ടിക്കറുകളുടെ എണ്ണവും, ടിക്കറ് നമ്പറും പ്രത്യേകം രജിസ്റ്ററിൽ രേഖപ്പെടുത്തി സൂക്ഷിക്കേണ്ടതും, ടി ടിക്കറുകൾക്ക് സമ്മാനങ്ങൾ ലഭിക്കുന്ന പക്ഷം ആയത് സംഘത്തിന്റെ പൊതുനന്മ ഫണ്ടിലേയ്ക്ക് വകയിരുത്തേണ്ട. പൊതു നന്മ ഫണ്ടിൽ തുകയില്ലാത്ത സഹകരണസംഘങ്ങൾ ടി സ്ഥാപനങ്ങളിലെ ജീവനക്കാർക്കും സഹകാരികൾക്കും ടി ഭാഗ്യക്കുറി ടിക്കറ് എടുക്കുന്നതിന് സഹകരിക്കേണ്ടതാണ്.

സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

No. MT(2) 32958/2002 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 22-1-2003

Circular No.3/2003

Sub **: Kerala State Co-operative Institute of Information Technology Electronics & Communications Ltd.No.4435- "COSTECH"- Formal sanction for conducting computerliteracy programme - Instructions issued**

Ref **: Letter No. COS/LIT/TRA/04 dated, 4.1.03 of Managing Director, "COSTECH"**

A 100% State Computer Literacy campaign in Co-operative Sector was inagurated at Thiiruvananthapuram on December 2nd, 2002 on the occassion of World Computer Literacy Day celebrations. "COSTECH" a state level Co-operative society in information Technology is programming to provide 100% Computer Literacy to the people in Co-operative sector within next Six months. So they requested to give permission for conducting Literacy programme in the state and to give direction to the Co-operative Societies in the State to the participate in the bring computer awarness to the employees of the Co-operative sector, "COSTECH", (Kerala State Co-operative Institute of Information Technology Electronics & Communications Ltd.No.4435) is permitted to conduct Computer Literacy Programme to the employees of Co-operative Societies in the State. With direction to the Co-operative Societies in the State to Co-operative with the "COSTECH" on the basis of the programmes scheduled by them allowing employees to participate in the Computer Literacy Programme. The Co-operative Societies may utilise their own funds for providing computer Literacy to the employees in the regard.

J. Raveendraraju
Registrar of Co-operative Societies in-charge

നമ്പർ സി.ബി.3 /37150/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 03.10.2003

സർക്കുലർ നമ്പർ 55/2003

വിഷയം : **സഹകരണ വകുപ്പ് സഹകരണ ബാങ്കുകളുടെ ദുർചിലവുകൾ നിയന്ത്രിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 22/72 നമ്പർ സർക്കുലർ**
2. സഹകരണസംഘം രജിസ്ട്രാറുടെ 13/74 നമ്പർ സർക്കുലർ
3. സഹകരണസംഘം രജിസ്ട്രാറുടെ 24/91 നമ്പർ സർക്കുലർ
4. സഹകരണസംഘം രജിസ്ട്രാറുടെ 9/94 നമ്പർ സർക്കുലർ
5. സഹകരണസംഘം രജിസ്ട്രാലുടെ 13/95 നമ്പർ സർക്കുലർ
6. സഹകരണസംഘം രജിസ്ട്രാറുടെ 32/01 നമ്പർ സർക്കുലർ
7. സർക്കാരിന്റെ 30.01.2003ലെ ജി.ഒ.(പി) നമ്പർ 70/2003/ഫിൻ നമ്പർ ഉത്തരവ്

സംസ്ഥാനത്തെ ചില സഹകരണ ബാങ്കുകൾ, മറ്റു പ്രാഥമിക സഹകരണസംഘങ്ങൾ എന്നിവ യാതൊരു നിയന്ത്രണവുമില്ലാതെ അനാവശ്യമായി വാഹനങ്ങൾ പുതിയതായി വാങ്ങുകയും, പുതിയവ വാങ്ങി ചുരുങ്ങിയ കാലത്തെ ഉപയോഗത്തിനുശേഷം കുറഞ്ഞ വിലയ്ക്ക് വിൽക്കുകയും ചെയ്യുന്നതായും, ചില പ്രാഥമിക സഹകരണസംഘങ്ങൾ/ ബാങ്കുകൾ സംഘം ഭാരവാഹികൾക്കും ജീവനക്കാർക്കും സംഘം ചെലവിൽ മൊബൈൽ ഫോണുകൾ വാങ്ങി നൽകുന്നതായും, ചില ജില്ലാ സഹകരണ ബാങ്കുകൾ ചീഫ് എക്സിക്യുട്ടീവ് ഓഫീസർക്ക് പുറമേ, ശാഖാ മാനേജർമാരുടെ വീട്ടിൽ ബാങ്ക് ചിലവിൽ ടെലിഫോൺ അനുവദിച്ചു നൽകി, ഫോൺ

വാടകയിനത്തിലും മറ്റും തുക ചിലവിടുന്നതായും ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ട്. സൂചനയിൽ സർക്കുലർ പ്രകാരം മാർഗ്ഗ നിർദ്ദേശങ്ങൾ നൽകിയിട്ടുണ്ടെങ്കിലും സർക്കാർ പുറപ്പെടുവിച്ചിട്ടുള്ള ധനവിനിയോഗം സംബന്ധിച്ച മാർഗ്ഗ നിർദ്ദേശങ്ങളുടെയും, സൂചന സർക്കുലറുകളുടെ അന്ത:സത്തയ്ക്ക് നിരക്കാത്ത തരത്തിൽ സംഘം മുതൽ ദുർവിനിയോഗം ചെയ്യുന്ന നടപടി, പ്രസ്ഥാനത്തിനെ പൊതു ജനങ്ങളുടെയും, സഹകാരികളുടെയും ഇടയിൽ ഇടയിൽ മോശപ്പെടുത്താൻ മാത്രമേ ഉപകരിക്കൂ എന്നു കാണുന്നു. പല സഹകരണ ബാങ്കുകളുടെയും സംഘങ്ങളുടെയും വരുമാനത്തിൽ ഗണ്യമായ കുറവുണ്ടാവുകയും, വായ്പകൾ തിരിച്ചടയ്ക്കുന്നതിൽ കർഷകരുൾപ്പെടെയുള്ള അംഗങ്ങൾ പ്രയാസപ്പെടുകയും ചെയ്യുന്ന വേളയിൽ, ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിപോലുള്ള നടപടികൾ മുഖേന, സ്ഥാപനങ്ങളുടെ കുടിശിക നിക്ഷേപം കുറയ്ക്കാനും മറ്റും നടപടികൾ ആവിഷ്ക്കരിക്കുമ്പോൾ ടി ആനുകൂല്യങ്ങൾ നൽകുന്നതിന് പല സംഘങ്ങളും വിമുഖത കാട്ടുകയും, അതേസമയം അംഗങ്ങളുടെ നിക്ഷേപവും മറ്റും സ്വരൂപിച്ച് ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും സംസ്ഥാന സഹകരണ ബാങ്ക്/നബാർഡ് എന്നിവയിൽ നിന്നും വായ്പയായി ലഭിക്കുന്ന ഫണ്ടിന്റെ വിനിയോഗം സൂക്ഷ്മതയോടും അംഗങ്ങൾക്കും സ്ഥാപനങ്ങൾക്കും പ്രയോജനകരമാകുന്നതാണെന്ന് വിലയിരുത്തി പ്രവർത്തിക്കേണ്ട ഭരണസമിതിക്ക് ടി സ്ഥാപനത്തിന്റെയും അംഗങ്ങളുടെയും താൽപര്യത്തിലുപരി, സ്വന്തം താൽപര്യങ്ങളും, സൗകര്യങ്ങളും വർദ്ധിപ്പിക്കുന്നതിന് നിയമപരമായി യാതൊരു അധികാരവുമില്ലെന്ന് ഓർമ്മപ്പെടുത്തുന്നു.

ഒരു പഞ്ചായത്ത്/താലൂക്ക് മാത്രം പ്രവർത്തന പരിധിയിലുള്ള സംഘങ്ങൾപോലും സംഘത്തിന്റെ പൊതുഫണ്ട് വിനിയോഗിച്ച് വാഹനങ്ങൾ വാങ്ങുകയും, സംഘം പ്രസിഡന്റിനും ഭരണസമിതി അംഗങ്ങൾക്കും ജീവനക്കാർക്കും സംഘം ചെലവിൽ മൊബൈൽ ഫോണുകൾ വാങ്ങി നൽകുകയും, ചിലവ് വഹിക്കുകയും ചെയ്യുന്നത് സംഘം ഫണ്ട് ദുർവിനിയോഗം ചെയ്യുന്നതിൽ കവി ഞ്ഞ് മറ്റൊന്നുമല്ലെന്നും ഓർമ്മപ്പെടുത്തുന്നു.

ഓരോ വർഷവും പുതിയ വാഹനങ്ങൾ വാങ്ങുകയും കാലപ്പഴക്കമില്ലാത്ത വാഹനങ്ങൾ കുറഞ്ഞ വിലയ്ക്ക് വിൽക്കുന്നതിലൂടെയും, പൊതുജനങ്ങളുടെ ഇടയിൽ സഹകരണ പ്രസ്ഥാനത്തെപ്പറ്റി മോശമായ പ്രതിച്ഛായ ഉണ്ടാക്കാനും ഇടയാവുകയും ചെയ്യുന്നു.

ഈ സ്ഥിതി തുടരുന്നത് സ്ഥാപനങ്ങളുടെ പ്രവർത്തനത്തെയും, സാമ്പത്തിക സ്ഥിതിയെയും സാരമായി ബാധിക്കുമെന്നതിനാലും, ചിലവുകൾ നിയന്ത്രിക്കേണ്ടതാണെന്ന് നിർദ്ദേശിക്കുന്നതോടൊപ്പം ചുവടെ പരാമർശിക്കുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. മേലിൽ എല്ലാ സഹകരണ ബാങ്കുകളും പ്രാഥമിക സഹകരണ സംഘങ്ങളും പുതുതായി വാഹനങ്ങൾ വാങ്ങുമ്പോഴും വിൽക്കുമ്പോഴും പൊതുഫണ്ട് വിനിയോഗിക്കുന്നതിന് സഹകരണ വകുപ്പിന്റെ മുൻകൂർ അനുമതി നിർബന്ധമായും വാങ്ങിയിരിക്കേണ്ടതാണ്.

2. സഹകരണ സ്ഥാപനങ്ങൾ, വാഹനങ്ങളുടെ ഉപയോഗം സംബന്ധിച്ച് സബ് റൂളുകൾ നിർബന്ധമായും അംഗീകരിച്ച് വാങ്ങിയിരിക്കേണ്ടതാണ്.

3. സംസ്ഥാന സഹകരണ ബാങ്ക്, മറ്റ് അപക്സ് സഹകരണ സ്ഥാപനങ്ങൾ

എന്നിവ യാതൊരു കാരണവശാലും, പ്രസിഡന്റ്/മാനേജിംഗ് ഡയറക്ടർ ഒഴികെയുള്ള ഭരണസമിതി അംഗങ്ങൾക്കോ ജീവനക്കാർക്കോ സംഘം ചിലവിൽ മൊബൈൽ ഫോണുകൾ വാങ്ങി നൽകുകയോ, പ്രതിമാസ ചിലവ് വഹിക്കാനോ പാടുള്ളതല്ല. പ്രസിഡന്റ്, മാനേജിംഗ് ഡയറക്ടർ എന്നിവരുടെ മൊബൈൽ ഫോണുകൾക്കുള്ള പ്രതിമാസ ചെലവ് എയർടൈം ചാർജ്ജുകൾ, സർവ്വീസ് ചാർജ്ജുകൾ എന്നിവയുൾപ്പെടെ പ്രതിമാസം (ആയിരം രൂപ) രൂപയിൽ അധികരിക്കാൻ പാടുള്ളതല്ല.

ജില്ലാ സഹകരണ ബാങ്ക് പ്രസിഡന്റിന്റെ ഫോണിന്റെ ഉപയോഗം പ്രതിമാസം 600 രൂപയിൽ അധികരിക്കാൻ പാടുള്ളതല്ല.

മൊബൈൽ ഫോണിന്റെ ഉപയോഗം, ഔദ്യോഗിക ആവശ്യത്തിനു മാത്രം ആയി നിജപ്പെടുത്തേണ്ടതും ടി തുകയിൽ അധികരിച്ചുവരുന്ന ചിലവുകളും അനൗദ്യോഗിക ആവശ്യങ്ങൾക്കുള്ള ഫോൺ ചാർജ്ജുകളും ബന്ധപ്പെട്ടവർ സ്വന്തം കൈയിൽ നിന്ന് വഹിക്കേണ്ടതുമാണ്.

4. പ്രാഥമിക സഹകരണ സംഘങ്ങൾ/ബാങ്കുകൾ പ്രസിഡന്റ് ഉൾപ്പെടെയുള്ള കമ്മറ്റി അംഗങ്ങൾക്കോ ഉദ്യോഗസ്ഥൻമാർക്കോ ബാങ്ക്/സംഘം ചിലവിൽ മൊബൈൽ ഫോണുകൾ വാങ്ങി നൽകാനോ, പ്രതിമാസ ചെലവ് വഹിക്കാനോ പാടില്ല.

5. ബാങ്ക്/സംഘം ചിലവിൽ വാങ്ങിയ മൊബൈൽ ഫോണുകൾ, ടി സ്ഥാപനങ്ങൾ ഉടനെ തിരിച്ചെടുക്കേണ്ടതും, കണക്ഷനുകൾ റദ്ദാക്കാൻ നടപടി സ്വീകരിക്കേണ്ടതുമാണ്.

മേൽ നിർദ്ദേശങ്ങൾക്ക് വിരുദ്ധമായി പ്രവർത്തിക്കുന്ന സഹകരണ സംഘങ്ങൾക്കെതിരെ നടപടി സ്വീകരിക്കുന്നതും, സ്ഥാപനത്തിനുണ്ടായ നഷ്ടം ഉത്തരവാദികളിൽ നിന്ന് ഈടാക്കുന്നതിന് നടപടി സ്വീകരിക്കുന്നതുമാണ്. ബന്ധപ്പെട്ട വകുപ്പ് ഉദ്യോഗസ്ഥൻമാർ എല്ലാ സ്ഥാപനങ്ങളുടെയും ശ്രദ്ധയിൽ ഈ സർക്കുലർ നിർദ്ദേശം കൊണ്ടു വരേണ്ടതും, അവ കർശനമായി പാലിക്കപ്പെടുന്നതാണെന്ന് ഉറപ്പ് വരുത്തേണ്ടതുമാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ : ജി. (1) 8532/2004

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 27–02–2004

സർക്കുലർ നമ്പർ 9/2004

വിഷയം : **ദേശീയതലത്തിലും അന്തർദേശീയതലത്തിലും സംഘടിപ്പിക്കപ്പെടുന്ന സമ്മേളനങ്ങൾക്കും പഠനയാത്രകൾക്കും സഹകരണ സ്ഥാപനങ്ങളിൽ നിന്നുള്ള പ്രതിനിധികളെ അയയ്ക്കുന്നതിൽ നിയന്ത്രണം ഏർപ്പെടുത്തുന്നത് – സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 18–05–80 ലെ 19/81–ാം നമ്പർ സർക്കുലർ**
2. സഹകരണസംഘം രജിസ്ട്രാറുടെ 31–01–81 ലെ 17/82–ാം നമ്പർ സർക്കുലർ
3. സഹകരണസംഘം രജിസ്ട്രാറുടെ 30–09–83 ലെ 54/83–ാം നമ്പർ സർക്കുലർ

സഹകരണപ്രസ്ഥാനവുമായി ബന്ധപ്പെട്ട് ദേശീയതലത്തിലും അന്തർദേശീയതലത്തിലും സംഘടിപ്പിക്കുന്ന സമ്മേളനങ്ങളിൽ സഹകരണ സ്ഥാപനങ്ങളിലെ പ്രതിനിധികൾക്ക് പങ്കെടുക്കുന്നതിനും പഠനയാത്രകൾ നടത്തുന്നതിനും നിയന്ത്രണം ഏർപ്പെടുത്തിക്കൊണ്ടും ഇത്തരത്തിലുള്ള യാത്രകൾക്കായി സർക്കാരിന്റെ മുൻകൂർ അനുവാദം വാങ്ങിയിരിക്കേണമെന്നും നിർദ്ദേശിച്ചുകൊണ്ടും സൂചനകൾ പ്രകാരം നിർദ്ദേ

ശങ്ങൾ പുറപ്പെടുവിച്ചിട്ടുണ്ട്. എന്നാൽ പ്രസ്തുത നിർദ്ദേശങ്ങൾ പൂർണ്ണമായും പാലിക്കപ്പെടുന്നില്ലെന്ന് ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. ആയതിനാൽ സഹകരണ സ്ഥാപനങ്ങളുടെ മുതൽ ദുരുപയോഗം ചെയ്തുകൊണ്ടുള്ള ഇത്തരം പ്രവണതകൾ അവസാനിപ്പിക്കുന്നതിലേക്കായി താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ കൂടി നൽകുന്നു.

1. ദേശീയവും അന്തർദേശീയവുമായ സമ്മേളനങ്ങളിലും പഠനയാത്രകളിലും പങ്കെടുക്കുന്നത് കഴിവതും ഒഴിവാക്കേണ്ടതാണ്.

2. സർക്കാരിന്റെ മുൻകൂർ അനുമതി നേടിയതിനുശേഷം മാത്രമേ ഇത്തരത്തിലുള്ള യാത്രകൾ നടത്താവൂ. ആയതിലേക്കുള്ള അപേക്ഷ സഹകരണസംഘം രജിസ്ട്രാർ മുഖേന സമർപ്പിക്കേണ്ടതാണ്. അപേക്ഷയിൽ യാത്രയുടെ ഉദ്ദേശ്യം, ഗതാഗതചെലവ്, നിർദ്ദിഷ്ടയാത്രകൊണ്ട് സംഘത്തിനുണ്ടാകുന്ന പ്രയോജനം തുടങ്ങിയവ വ്യക്തമായി പരാമർശിച്ചിരിക്കണം.

3. സർക്കാരിന്റെ മുൻകൂർ അനുമതി ലഭിക്കാതെ സംഘം ചെലവിൽ നടത്തുന്ന യാത്രകൾ നിയമപരമായി സാധൂകരണമില്ലാത്തവയാണ്. ഇത്തരത്തിലുള്ള യാത്രകൾ നടത്തിയാൽ 1969 ലെ കേരള സഹകരണസംഘം നിയമത്തിലെ വകുപ്പ് 68 അടക്കമുള്ള നിയമങ്ങളനുസരിച്ച് നടപടികൾ സ്വീകരിക്കുന്നതായിരിക്കും.

4. സർക്കാരിന്റെ മുൻകൂർ അനുമതി ലഭിക്കാതിരിക്കുകയും എന്നാൽ ഏതെങ്കിലും കാരണവശ്ശാൽ യാത്രകൾ കൂടിയേ തീരൂ എന്നുമുണ്ടെങ്കിൽ, അത് യാത്ര ചെയ്യുന്നവരുടെ സ്വന്തം ചെലവിൽ ആകാവൂന്നതാണ്. ആയതിലേക്കായി സംഘങ്ങളുടെ പൊതുമുതലിൽ ബാധ്യത ഇല്ലാത്തതാകുന്നു.

മുകളിൽ പറഞ്ഞിട്ടുള്ള നിർദ്ദേശങ്ങളോടൊപ്പം സൂചനയിലെ നിർദ്ദേശങ്ങൾ കൂടി കർശനമായി പാലിക്കേണ്ടതാണെന്ന് അറിയിക്കുന്നു. പ്രസ്തുത നിർദ്ദേശങ്ങൾ ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർമാർ എല്ലാ സഹകരണ സംഘങ്ങളുടെയും ശ്രദ്ധയിൽകൊണ്ടു വരേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ ജി (2) 22765/2004

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 09–06–2004

സർക്കുലർ നമ്പർ 21/04

വിഷയം : **സഹകരണവകുപ്പ് – മഴവെള്ള സംഭരണ പദ്ധതി – സഹകരണ സ്ഥാപനങ്ങൾ വഴി നടപ്പാക്കുന്നത് – നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്**

ജലസമ്പത്തിൽ ഇന്ത്യയിലെ മറ്റു സംസ്ഥാനങ്ങളേക്കാൾ മികച്ച സ്ഥാനം ഉണ്ടായിരുന്ന നമ്മുടെ സംസ്ഥാനം ഏതാനും വർഷങ്ങളായി രൂക്ഷമായ വരൾച്ച നേരിട്ടുകൊണ്ടിരിക്കുകയാണ്. ശരാശരി 307 സെന്റിമീറ്റർ മഴ ലഭിക്കുന്ന നമ്മുടെ സംസ്ഥാനത്ത് രൂക്ഷമായ ജലക്ഷാമം അനുഭവപ്പെട്ടു എന്നത് നിസ്സാരമായി കരുതാവുന്ന സംഗതിയല്ല. ജല ഉപയോഗത്തിലെ ധാരാളിത്തവും ജലവിഭവ പരിപാലനത്തിലെ കാര്യക്ഷമതാകുറവും ജലമാലിന്യവുമൊക്കെ കേരളത്തിന്റെ ജലസ്ഥിതി അനുദിനം വഷളാക്കിക്കൊണ്ടിരിക്കുകയാണ്. ദീർഘവീക്ഷണത്തോടോടെയും സമയബന്ധിതവുമായ പദ്ധതികൾ നടപ്പാക്കാത്ത പക്ഷം വരും വർഷങ്ങളിൽ ജലദൗർലഭ്യം കൂടുതൽ രൂക്ഷമാകാനേ സാധ്യതയുള്ളുവെന്നും മഴയിൽക്കൂടി ലഭിക്കുന്ന ഭൂരിഭാഗം ജലവും പാഴായിപ്പോകുന്ന സാഹചര്യത്തിൽ മഴവെള്ളം ശേഖരിച്ച് അത് ഭൂമിയിലേക്ക് ഇറങ്ങി

ഭൂഗർഭ ജലനിരപ്പ് ഉയർന്നാലെ നാം അഭിമുഖീകരിക്കുന്ന ജലക്ഷാമത്തിന് ഒരു പരിധി വരെയെങ്കിലും പരിഹാരമുണ്ടാക്കാൻ കഴിയൂ എന്നും ജലസമ്പത്ത് പ്രകൃതിയുടെ വരദാനമായി കണക്കാക്കി അതിനെ സംരക്ഷിക്കേണ്ടത് ഏറ്റവും അനിവാര്യമാണെന്ന് ബോധ്യമായി കഴിഞ്ഞിരിക്കുന്നു. ഈ ലക്ഷ്യം മുൻ നിർത്തിയാണ് സംസ്ഥാന സർക്കാർ ജനപങ്കാളിത്തത്തോടുകൂടി മഴവെള്ള സംഭരണ പദ്ധതി നടപ്പാക്കാൻ ഉദ്ദേശിച്ചിട്ടുള്ളത്.

ജനോപകാരപ്രദമായ ഈ പദ്ധതിയിൽ കേരളത്തിലെ എല്ലാ സഹകരണസ്ഥാപനങ്ങളും പങ്കാളികളാകേണ്ടതാണെന്ന് നിർദ്ദേശിക്കുന്നു. പ്രസ്തുത പദ്ധതി നടപ്പാക്കുന്നതിന്റെ ഭാഗമായി ജലസംഭരണി നിർമ്മാണത്തിനു വേണ്ടി അംഗീകൃത ഏജൻസികളെ കൊണ്ട് പ്ലാനും എസ്റ്റിമേറ്റും തയ്യാറാക്കി ഓരോ സംഘങ്ങളും തങ്ങൾക്ക് അനുയോജ്യമമായ വിധത്തിൽ പദ്ധതി നടപ്പാക്കുന്നതിനുള്ള അപേക്ഷ ബന്ധപ്പെട്ട ജില്ല ജോയിന്റ് (ജനറൽ) രജിസ്ട്രാർമാർക്ക് അംഗീകാരത്തിനായി സമർപ്പിക്കേണ്ടതാണ്. സംഘങ്ങൾ സമർപ്പിച്ചിട്ടുള്ള എസ്റ്റിമേറ്റിന്റെ അടിസ്ഥാനത്തിൽ അപേക്ഷ പരിശോധിച്ച് പ്രസ്തുത പദ്ധതി നടപ്പാക്കാൻ ആവശ്യമായ തുക ജോയിന്റ് രജിസ്ട്രാർമാർ നൽകേണ്ടതാണെന്ന് നിർദ്ദേശിക്കുന്നു. ഒന്നിൽ കൂടുതൽ ജില്ലകളോ സംസ്ഥാനം മുഴുവനുമോ പ്രവർത്തന പരിധിയായിട്ടുള്ള സംഘങ്ങൾ അനുമതിക്കുള്ള അപേക്ഷ ബന്ധപ്പെട്ട ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാർ മുഖേന സഹകരണസംഘം രജിസ്ട്രാർക്ക് സമർപ്പിക്കേണ്ടതാണ്. ഇക്കാര്യത്തിൽ സംഘാംഗങ്ങൾക്കിടയിൽ ബോധവൽക്കരണം നടത്തേണ്ടതും വ്യക്തമായ എസ്റ്റിമേറ്റിന്റെ അടിസ്ഥാനത്തിൽ അംഗങ്ങളിൽ നിന്നും വായ്പ അപേക്ഷ ലഭിക്കുകയാണെങ്കിൽ പരിശോധിച്ച് ആവശ്യമായ ധനസഹായം നൽകേണ്ടതുമാണ്. ''ജലം അമൂല്യമാണ്. അത് പാഴാക്കരുത്, അതു സംഭരിച്ച് സൂക്ഷിക്കുക" എന്ന് എഴുതിയ ബോർഡുകൾ എല്ലാ സംഘങ്ങളിലും പ്രദർശിപ്പിക്കുകയും ആവശ്യമായ പ്രചരണം നൽകുകയും ചെയ്യേണ്ടതാണ്.

ജില്ലയിലെ ജോയിന്റ് രജിസ്ട്രാർമാർക്ക് ഇക്കാര്യത്തിൽ ആവശ്യമായ നിർദ്ദേശങ്ങൾ സംഘങ്ങൾക്ക് നൽകി ത്വരിതഗതിയിൽ ഈ പദ്ധതി നടപ്പിലാക്കണമെന്ന് നിർദ്ദേശിക്കുന്നു.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ : ജി (2) 53223/2004 സഹകരണസംഘം രജിസ്ട്രാറാഫീസ്,
തിരുവനന്തപുരം, തീയതി 31–12–2004

സർക്കുലർ നമ്പർ 47/2004

വിഷയം : **സഹകരണ വകുപ്പ് – കടൽക്ഷോഭ ദുരിതാശ്വാസം – സഹകരണ സ്ഥാപനങ്ങൾ സംഭാവന ചെയ്യുന്നതിന് അനുമതി നൽകുന്നത് സംബന്ധിച്ച്**

തെക്കു കിഴക്കൻ ഏഷ്യയുടെ സമുദ്രതീരങ്ങളിൽ ഇപ്പോൾ ഉണ്ടായിട്ടുള്ള അതിരൂക്ഷമായ കടൽക്ഷോഭത്തിൽ ആയിരക്കണക്കിന് ആളുകൾക്ക് ജീവഹാനി സംഭവിക്കുകയും ലക്ഷക്കണക്കിനാളുകൾ ഭവനരഹിതരും നിരാലംബരും ആയിത്തീർന്നിരിക്കുകയാണ്. അപ്രതീക്ഷിതമായ ഈ വിപത്ത് കേരളത്തിന്റെ തീരപ്രദേശങ്ങളിലും നൂറുകണക്കിന് ആളുകളുടെ ജീവഹാനിക്കും മറ്റു ദുരിതങ്ങൾക്കും കാരണമായിത്തീർന്നിരിക്കുന്നു. നിരാലംബരായ തീരദേശനിവാസികളെ സഹായിക്കുന്നതിന് ഈ സാഹചര്യത്തിൽ യുദ്ധകാലാടിസ്ഥാനത്തിൽ ദുരിതാശ്വാസ രക്ഷാപ്രവർത്തനങ്ങളും പുനരധിവാസ പ്രവർത്തനങ്ങളും നടന്നുവരികയാണ്. വിവിധ മേഖലകളിലുണ്ടായിട്ടുള്ള ദുരിതാശ്വാസ പ്രവർത്തനങ്ങളിൽ കേരളത്തിലെ സഹകരണമേഖലയും പങ്കാളിയാകുന്നത്

കടൽക്ഷോഭം കൊണ്ട് ദുരിതമനുഭവിക്കുന്ന ജനതക്ക് ആശ്വാസമാകുമെന്ന് കരുതുന്നു.

ആ സാഹചര്യത്തിൽ ഇപ്പോൾ ഉണ്ടായിട്ടുള്ള കടൽക്ഷോഭ ദുരിതാശ്വാസ പ്രവർത്തനത്തിനു വേണ്ടി സംസ്ഥാന സഹകരണബാങ്കിൽ രൂപീകരിച്ചിട്ടുള്ള റിലീഫ് ഫണ്ടിലേക്ക് ഉദാരമായ സംഭാവന ചെയ്യാൻ സഹകരണ വകുപ്പിന്റെ ഭരണ നിയന്ത്രണത്തിലുള്ള സംസ്ഥാനത്തെ എല്ലാ സഹകരണസ്ഥാപനങ്ങൾക്കും ഇതിനാൽ അനുവാദം നൽകുന്നു.

വകുപ്പിലെ ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥർ മേൽ അനുവാദം അവരവരുടെ നിയന്ത്രണത്തിൻ കീഴിൽ വരുന്ന സഹകരണസ്ഥാപനങ്ങളുടെ ശ്രദ്ധയിൽ കൊണ്ടുവരേണ്ടതും, സംസ്ഥാനസഹകരണബാങ്കിന്റെ തിരുവനന്തപുരത്തുള്ള ഹെഡ് ഓഫീസ് ശാഖയിൽ ഇതിനായി മാനേജിങ് ഡയറക്ടറുടെ പേരിൽ രൂപീകരിച്ചിട്ടുള്ള അക്കൗണ്ടിലേക്ക് 15–01–2005 – നകം തുക അയച്ചു കൊടുക്കുവാനും നിർദ്ദേശം നൽകേണ്ടതാണ്.

കെ. കേശവൻ

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

4. PROFIT DISTRIBUTION

നമ്പർ.പി.ററി.(1) 37274/02

സഹകരണസംഘം **രജിസ്ട്രാർ** ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 22.2.2003

സർക്കുലർ നമ്പർ 11/2003

വിഷയം : **സഹകരണ വകുപ്പ് . സഹകരണ സ്ഥാപനങ്ങളിൽ നിന്ന് വിദ്യാഭ്യാസ ഫണ്ട് പിരിയ്ക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **(1) 13.11.2002ൽ കൂടിയ സഹകരണ സംഘം ജോയിന്റ് രജിസ്റ്റർമാരുടെ സമ്മേളനത്തിലെ തീരുമാനം**

(2) 05.9.1988ലെ സർക്കുലർ നമ്പർ 35/88

13.11.2002.ൽ കണ്ണൂരിൽ വച്ച് ചേർന്ന സഹകരണസംഘം ജനറൽ/ആഡിറ്റ് വിഭാഗം ജോയിന്റ് രജിസ്റ്റാർമാരുടെ സമ്മേളനത്തിലെ ചർച്ചയിൽ വിദ്യഭ്യാസ ഫണ്ട് ഇനത്തിൽ വലിയൊരു തുക സഹകരണസ്ഥാപനങ്ങളിൽ നിന്നും ലഭിക്കുവാനുള്ളതായി ശ്രദ്ധയിൽപ്പെടുകയുണ്ടായി. സഹകരണ സംഘങ്ങളുടെ ആഡിറ്റ് സർട്ടിഫിക്കറ്റ് ലഭിച്ച് 2 മാസത്തിനകം വിദ്യഭ്യാസ ഫണ്ട് വിഹിതം കേരള സംസ്ഥാന സഹകരണ ബാങ്കിൽ അടയ്ക്കണമെന്ന 1969ലെ കേരള സഹകരണസംഘം ചട്ടം 53 (2) ലെ നിബന്ധന ചില സഹകരണസംഘങ്ങൾ പാലിക്കാത്തതിനാലാണ് ഈ ഇനത്തിൽ വൻതുക കുടിശ്ശികയായിട്ടുള്ളത്.

സൂചന(2) ലെ സർക്കുലർ നിർദ്ദേശം ഈ വിഷയത്തിൽ നൽകിയിരുന്നുവെങ്കിലും ആയത് യഥായോഗ്യം പാലിക്കുന്നില്ലെന്ന് ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. അതിനാൽ വിദ്യഭ്യാസ ഫണ്ട് ഇനത്തിൽ അടയ്ക്കാനുള്ള തുക ഉടൻതന്നെ സംസ്ഥാന സഹകരണബാങ്കിന്റെ അക്കൗണ്ടിൽ സഹകരണസംഘങ്ങൾ അടക്കേണ്ടതാണ്.

ഇപ്രകാരം അടയ്ക്കാനുള്ള തുകകൾ അടയ്ക്കുന്നുണ്ടെന്ന് ബന്ധപ്പെട്ട ജനറൽ/ആഡിറ്റ് വിഭാഗം സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാറുമാരും, സഹകരണസംഘം അസിസ്റ്റന്റ് രജിസ്റ്റർമാരും, സഹകരണസംഘം ഇൻസ്പെക്ടർമാരും, ആഡിറ്റർമാരും

ഉറപ്പാക്കേണ്ടതും, സഹകരണസംഘങ്ങളുടെ പരിശോധനാവേളയിലും ആഡിറ്റ് പൂർത്തിയാക്കുന്ന സമയത്തും സർക്കുലർ പ്രകാരമുള്ള നിർദ്ദേശം പാലിച്ചിട്ടുണ്ടെന്ന് ഉറപ്പുവരുത്തേണ്ടതുമാണെന്ന് നിർദ്ദേശിക്കുന്നു.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

എ.ഡി.എൽ.2 /22685/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 12.6.03

സർക്കുലർ നമ്പർ 31/2003

വിഷയം : **സഹകരണ വിദ്യാഭ്യാസ ഫണ്ട് പിരിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : സംസ്ഥാന സഹകരണ യൂണിയന്റെ 4.6.2003 ലെ ഇ.എഫ്. (1) 3651/2003 നമ്പർ കത്ത്

സംസ്ഥാന സഹകരണ യൂണിയന്റെ ഇപ്പോഴത്തെ പ്രവർത്തനം സംബന്ധിച്ചും വരുമാന മാർഗ്ഗങ്ങളെ സംബന്ധിച്ചും 30.5.2003 ൽ ബഹുമാനപ്പെട്ട കേരള സഹകരണവകുപ്പു മന്ത്രിയുടെ ചേബറി ൽ കൂടിയ ഉന്നതതലയോഗത്തിൽ ചർച്ച ചെയ്യുകയുണ്ടായി. യൂണിയന്റെയും സഹകരണ വകുപ്പിലെ ജില്ലാ ഉദ്യോഗസ്ഥന്മാരുടെയും കൂട്ടായ പ്രവർത്തനത്തിലൂടെ ഈ പ്രതിസന്ധി പരിഹരിക്കുന്നതിന് അടിയന്തിര ഊർജ്ജിത നടപടികൾ കൈകൊള്ളേണ്ടതാണെന്ന് ബഹുമാനപ്പെട്ട മന്ത്രി നിർദ്ദേശിച്ചതിന്റെ അടിസ്ഥാനത്തിൽ സംഘങ്ങളിൽ നിന്നും ലഭിക്കേണ്ട സഹകരണ വിദ്യാഭ്യാസ ഫണ്ട് ഡിമാന്റ് കളക്ഷൻ എടുക്കുന്നതിനും അതുപ്രകാരം വിദ്യഭ്യാസഫണ്ട് സമയബന്ധിതമായി ശേഖരിക്കുന്നതിലും തീരുമാനിക്കുകയും സംസ്ഥാന സഹകരണയൂണിയനിലെ സഹകരണ വിദ്യാഭ്യാസ ഇൻസ്പെക്ടേഴ്സ്/മറ്റ് ഉദ്യോഗസ്ഥർ എന്നിവരെ ഡിമാന്റ് കളക്ഷൻ ശേഖരണത്തിന് വേണ്ടി ചുമതലപ്പെടുത്തിയിരിക്കുകയാണ്.

മേൽപ്പറഞ്ഞ സാഹചര്യത്തിൽ പ്രസ്തുത ഉദ്യോഗസ്ഥന്മാർ ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർ(ആഡിറ്റ്), അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ആഡിറ്റ്) എന്നീ ആഫീസുകൾ സന്ദർശിച്ച് വിവരങ്ങൾ ശേഖരിക്കുന്നതിന് പരമാവധി സഹായ സഹകരണങ്ങൾ ചെയ്തുകൊടുക്കേണ്ടതാണെന്നും വിദ്യാഭ്യാസ ഫണ്ട് ശേഖരണത്തിന് സംഘങ്ങളുമായി ബന്ധപ്പെട്ട് ആവശ്യമായ നിർദ്ദേശങ്ങൾ നൽകി യൂണിയനിലെ സഹകരണ വിദ്യാഭ്യാസ ഇൻസ്ട്രക്ടർ മുഖേന സഹകരണ വിദ്യാഭ്യാസഫണ്ട് ശേഖരണം ഊർജ്ജിതപ്പെടുത്തുന്നതിനും എല്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ആഡിറ്റ്), അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ആഡിറ്റ്) എന്നിവരെ ചുമതലപ്പെടുത്തുന്നു.

കെ.കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ സി.പി.(1) 27052/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 30.9.2003

സർക്കുലർ നമ്പർ 53/2003

വിഷയം : **സഹകരണവകുപ്പ് പ്രാഥമിക വായ്പാ സഹകരണസംഘങ്ങൾ അറ്റലാഭ വിഭജനം വിദ്യഭ്യാസ ഫണ്ടിലേക്ക് തുക വക മാറ്റുന്നത് സംബന്ധിച്ച്**

സൂചന : **2.5.2000 തീയതിയിലെ ജി.ഒ.(പി) നമ്പർ 80/2000/സഹ. ഉത്തരവ്**

കേരള സഹകരണ ചട്ടം 53 ൽ വരുത്തിയ ഭേദഗതി അനുസരിച്ച് 1000/-രൂപയോ അതിൽ കൂടുതലോ അറ്റ ലാഭമുള്ള ഓരോ സംഘവും ഇപ്രകാരം അടയ്ക്കേണ്ട തുക പരമാവധി 40,000/- രൂപയായി നിജപ്പെടുത്തിയിട്ടുണ്ട്. എന്നാൽ വർദ്ധിപ്പിച്ച തുക കണക്കാക്കാവുന്ന തീയതിയെ സംബന്ധിച്ച് ചില മാർഗ്ഗനിർദ്ദേശം നൽകണമെന്ന് ചില സഹകരണസംഘങ്ങൾ അപേക്ഷിച്ചിരിക്കുന്നതിനാൽ ചുവടെ പരാമർശിച്ചിരുന്ന നിർദ്ദേശം നൽകുന്നു.

99–2000 വർഷത്തെ ലാഭവിഭജനം സംബന്ധിച്ചുള്ള തീരുമാനം എടുക്കുന്നതിനായി വിളിച്ചു ചേർത്ത വാർഷിക പൊതുയോഗം 2.5.2000 തീയതിക്കു മുമ്പാണെങ്കിൽ വിദ്യാഭ്യാസ ഫണ്ടിലേക്ക് വകമാറ്റുന്ന പരമാവധി തുക 25000/ രൂപയായി നിജപ്പെടുത്താവുന്നതാണ്. എന്നാൽ പ്രസ്തുത ആവശ്യത്തിലേക്കുള്ള വാർഷിക പൊതുയോഗം 2.5.2000 ന് ശേഷം ആണ് വിളിച്ചു കൂട്ടുന്നതെങ്കിൽ വിദ്യാഭ്യാസ ഫണ്ടിലേക്ക് അറ്റലാഭത്തിന്റെ 5% പരമാവധി 40,000/- രൂപയായി നിജപ്പെടുത്തി വകമാറ്റേണ്ടതാണ്.

കെ.കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ : എ. ഡി. എൽ. (2) 27052/2003 സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസ്, തിരുവനന്തപുരം, തീയതി 04–02–2004

സർക്കുലർ നമ്പർ 04/2004

വിഷയം : **സഹകരണ വകുപ്പ് സഹകരണ സംഘങ്ങളുടെ അറ്റലാഭവിഭജനം വിദ്യാഭ്യാസ ഫണ്ടിലേക്ക് തുക വക മാറ്റുന്നതു സംബന്ധിച്ച് നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്.**

സൂചന : **1. 02–05–2000 തീയതിയിലെ ജി.ഒ. (പി) നമ്പർ 80/200/സഹ. നമ്പർ ഉത്തരവ്.**
2. 30–09–2003 ലെ 53/2003 നമ്പർ ഉത്തരവ്

കേരള സഹകരണ ചട്ടം 53 വരുത്തിയ ഭേദഗതി അനുസരിച്ച് 1000/– രൂപയോ അതിൽക്കൂടുതലോ അറ്റലാഭമുള്ള ഓരോ സംഘവും അറ്റലാഭത്തിന്റെ 5% വരുന്ന തുക വിദ്യാഭ്യാസ ഫണ്ടിലേക്ക് വക മാറ്റേണ്ടതാണ്. ഇപ്രകാരം അയക്കേണ്ട തുക യുടെ പരമാവധി പരിധി പരാമർശം ഒന്നിലെ ഉത്തരവു പ്രകാരം 40,000 രൂപയായി വർദ്ധിപ്പിച്ചിട്ടുമുണ്ട്. എന്നാൽ വർദ്ധിപ്പിച്ച തുക കണക്കാക്കുന്ന തീയതിയെ സംബ ന്ധിച്ച് പരാമർശം രണ്ടു പ്രകാരം പുറപ്പെടുവിച്ച സർക്കുലർ നിർദ്ദേശത്തിൽ വന്ന പോരായ്മ ശ്രദ്ധയിൽപ്പെട്ടതിനാൽ പ്രസ്തുത 30–09–2003–ാം നമ്പർ സർക്കുലർ ഇതി നാൽ റദ്ദുചെയ്ത് താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

പരാമർശം ഒന്നിലെ ഗവണ്മെന്റ് ഉത്തരവിൽ ഏതു തീയതി മുതൽക്കാണ് ഉത്തരവിനു പ്രാബല്യം എന്നു വ്യക്തമാക്കിയിട്ടില്ലാത്തതിനാൽ ഗവണ്മെന്റ് ഉത്തരവ് തീയതിയായ 2–5–2000 മുതൽ പ്രസ്തുത ഉത്തരവിന് പ്രാബല്യമുണ്ടായിരിക്കുന്നതാണ്. വിദ്യാഭ്യാസ ഫണ്ട് നിയമാനുസൃത(സ്റ്റാറ്റ്യൂട്ടറി)മായതിനാൽ 2–5–2000ത്തിനു ശേഷം പൂർത്തീകരിക്കുന്ന കുടിശ്ശിക ആഡിറ്റ് ഉൾപ്പെടെയുള്ള എല്ലാ ഓഡിറ്റുകൾക്കും പരാമർശം ഒന്നു പ്രകാരം വർദ്ധിപ്പിച്ചിട്ടുള്ള ഉയർന്ന നിരക്ക് ബാധകമാണെന്ന് അറിയിക്കുന്നു.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

5. FLUID RESOURCES

Number	Subject	Page
40/85	പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ- തരളധനം (ഫ്ളൂയിഡ് റിസോഴ്സ്) സൂക്ഷിക്കുന്നതു സംബന്ധിച്ച്	591
68/89	Maintenance of Fluid Resources by Co-operative Societies not coming under the purview of the Banking Regulation Act-provision of Rule 61 of the Kerala Co-operative Societies Act-compliance-Regarding.	592
38/91	National Savings Scheme-Investment in Indira Vikas Patra treated as Government Security for the purpose of Fluid Resources by Co-operatives-instructions-issued.	594
50/92	Co-operation- maintenance of fluid resources by Co-operative Credit institutions not coming within the purview of Banking Regulation Act 1949 Provision under Rule 63 of the Kerala Co-operative Societies Rules-compliance-Regarding.	594
G.O.(P)No. 593/96/Fin. Dt. 27-9-1996	Finance Department-Co-operatives and Welfare Fund Boards-Investment of surplus funds-Instruction-orders issued.	597

6. INSURANCE

30/76	എല്ലാ പ്രാഥമിക സഹകരണ സംഘങ്ങളിലും അംഗങ്ങൾക്ക് സ്വർണ്ണ പണയത്തിൻമേൽ വായ്പ കൊടുത്തു തുടങ്ങുന്ന കാര്യം	598
49/78	സഹകരണ സ്ഥാപനങ്ങൾ അവയുടെ ഇൻഷ്വറൻസ് ആവശ്യങ്ങൾ നിർവഹിക്കുന്നത് സംബന്ധിച്ച് നിർദ്ദേശങ്ങൾ നൽകുന്നത്.	598
52/81	Thefts/Burglaries in Co-op institutions-Preventive measures.	599
52/86	സ്വർണ്ണ പണയ പണ്ടങ്ങൾ-ഇൻഷ്വർ ചെയ്യുന്നത് സംബന്ധിച്ച നിർദ്ദേശങ്ങൾ	600
49/93	സ്വർണ്ണ പണ്ടങ്ങൾ-ഇൻഷ്വർ ചെയ്യുന്നത് സംബന്ധിച്ച നിർദ്ദേശങ്ങൾ.	601
24/97	Comprehensive Crop Insurance Scheme-State Crop Insurance Fund Committee-meeting-decision-follow up action-reg.	603
Govt.Cir.No. 75/97/Fin. Dt. 6-10-97	Insurance of Co-operative Institutions and Khadi Board through Kerala State Insurance Department-regarding.	603

നമ്പർ സി.ബി.(3) 16597/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്, തിരുവനന്തപുരം, തീയതി 26.6.2003

സർക്കുലർ നമ്പർ 24/03

വിഷയം : **സഹകരണ വകുപ്പ് സഹകരണ ഇൻഷ്വറൻസ് സംഘം ക്ലിപ്തം നമ്പർ.4428 (കോയിൻസ്) ഇഫ്കോ ടോക്യോ യുമായി ധാരണ സഹകരണ സ്ഥാപനങ്ങളുടെ എല്ലാവിധ ഇൻഷ്വറൻസ് ഇടപാടുകളും സഹകരണ ഇൻഷ്വറൻസ് സംഘവുമായി നടത്തുന്നതിന് നിർദ്ദേശം നൽകുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണ ഇൻഷ്വറൻസ് സംഘം ക്ലിപ്തം നമ്പർ 4428 അഡ്മിനിസ്ട്രേറ്റർമാരുടെ 16.4.02ലെ 1 -ാം നമ്പർ നടപടി ക്രമം**

2. സഹകരണ ഇൻഷ്വറൻസ് സംഘം ക്ലിപ്തം നമ്പർ 4428 (കോയിൻസ്) മാനേജിംഗ് ഡയറക്ടർ/ഡെപ്യൂട്ടി രജിസ്ട്രാറുടെ 22.4.03 ലെ കത്ത്

1969 ലെ കേരള സഹകരണ നിയമത്തിന കീഴിൽ ഇൻഷ്വറൻസ് റഗുലേറ്ററി ആന്റ് ഡവലപ്മെന്റ് അതോറിറ്റിയുടെ വ്യവസ്ഥകളും, നിർദ്ദേശങ്ങൾക്കും അനസൃതമായി, കേരളത്തിൽ ഇൻഷ്വറൻസ് ബിസിനസ് നടത്തുന്നതിനായി രൂപീകരിക്കപ്പെട്ട സഹകരണ ഇൻഷ്വറൻസ് സംഘം ക്ലിപ്തം നമ്പർ 4428, സംഘത്തിന്റെ പ്രവർത്തന വിപുലീകരണത്തിനായി ഇഫ്കോ – ടോക്യോ ജനറൽ കമ്പനിയുമായി ധാരണ പത്രത്തിൽ ഒപ്പുവച്ചിട്ടുണ്ട്.

സഹകരണ മേഖലയിൽ ഇന്ത്യയിലെ ഏറ്റവും വലിയ സംരംഭങ്ങളായ ഇന്ത്യൻ ഫാർമേഴ്സ് ഫെർട്ടിലൈസേഴ്സ് ലിമിറ്റഡ് (ഇഫ്കോ), ക്രിഷക്ഭാരതി കോഓപ്പറേറ്റീവ് ലിമിറ്റഡ് (ക്രോഫ്കോ), എന്നിവയുടെ ഇൻഷുറൻസ് മേഖലയിലെ സംയുക്ത സംരഭമാണ്. ഇഫ്കോ ടോക്കോ ജനറൽ ഇൻഷ്വറൻസ് മേഖലയിലെ 49 ശതമാനവും, ക്രിബ്കോയ്ക്ക് 20 ശതമാനവും, ഇന്ത്യൻ പൊട്ടാഷ് ലിമിറ്റഡിന് 5% വും ജപ്പാനിലെ ടോക്കിയോ മറൈൻ ആന്റ് ഫയർ ഇൻഷ്വറൻസ് കമ്പനിക്ക് 26 ശതമാനവും ഓഹരി പങ്കാളിത്തമുള്ള സംയുക്ത സംരംഭമായ ഇഫ്കോ ടോക്കിയോ ജനറൽ ഇൻഷുറൻസ് കമ്പനി ലിമിറ്റഡ് (ഐ.റ്റി.ജി.ഐ) സഹകരണ സ്ഥാപനങ്ങളിലൂടെ ജനറൽ ഇൻഷുറൻസ് പ ദ്ധതികൾ നടപ്പിലാക്കാനാണ് ഉദ്ദേശിക്കുന്നത്. കേരളത്തിൽ ഈ പദ്ധതി നടത്തിപ്പിന്റെ കോർപ്പറേറ്റ് ഏജന്റായി കോയിൻസ് പ്രവർത്തിക്കുന്നതിനായിട്ടാണ് ധാരണ പത്രത്തിൽ ഒപ്പിട്ടിട്ടുള്ളത്. എല്ലാ ജില്ലാ ആസ്ഥാനങ്ങളിലും ഓഫീസുകൾ തുറക്കുന്നതിനും തീരുമാനിച്ചിട്ടുണ്ട്.

ആകയാൽ സഹകരണ സംഘത്തിന്റെ ഈ നൂതനസംരംഭത്തിൽ എല്ലാ സഹായവും പിൻതുണയും നൽകേണ്ടത് സഹകരണ പ്രസ്ഥാനത്തിന്റെ കടമയാണ്.

ടി സാഹചര്യത്തിൽ കേരളത്തിലെ എല്ലാ സഹകരണ സ്ഥാപനങ്ങളും അവരുടെ എല്ലാവിധ ഇൻഷ്വറൻസ് ഇടപാടുകളും സഹകരണ ഇൻഷ്വറൻസ് സംഘം ക്ലിപ്തം നമ്പർ 4421 (കോയിൻസ്) മായി നടത്തുവാൻ താൽപര്യപ്പെടുന്നു.

കെ. കേശവൻ

സഹകരണ സംഘം രജിസ്ട്രാർ.ഇൻചാർജ്ജ്

7. OPENING OF BRANCHES

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17/81	Opening of branches by primary Agricultural Credit societies and Urban Co-op. Banks not coming under the purview of Banking Regulation Act-Instructions issued.	606
20/88	Opening of branches of Primary Co-operative Agricultural Development Banks-Norms regarding-Instructions issued.	607
Lr.No.CB(4) 70034/87. Dt. 27-12-1989	Issue of no objection certificate to Urban Co-op: Banks for opening branches-regarding.	610

45/91	പ്രാഥമിക സഹകരണ കാർഷിക വികസന ബാങ്കുകൾ–പുതിയ ബ്രാഞ്ചുകളും സബ് ഓഫീസുകളും തുറക്കുന്നതിനായി അപേക്ഷകൾ നൽകുന്നതു സംബന്ധിച്ച്.	611
48/2000	സഹകരണ സ്ഥാപനങ്ങൾ–ശാഖകൾ മാറ്റൽ – അവധി ക്രമീകരിക്കൽ–സമയമാറ്റം വരുത്തൽ തുടങ്ങിയവ – ക്രമീകരിക്കുന്നതിന് മാർഗ്ഗനിർദ്ദേശം പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്	612

നമ്പർ : സി.പി. (1) 8968/04 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്, തിരുവനന്തപുരം, തീയതി 12.05.2004

സർക്കുലർ നമ്പർ 19/2004

വിഷയം : **സഹകരണസംഘങ്ങൾ – മുന്നറിയിപ്പില്ലാതെ ബാങ്കുകൾ/ശാഖകൾ അവധി പ്രഖ്യാപിക്കുകയും ഇടപാടുകാർക്ക് ബുദ്ധിമുട്ടുണ്ടാക്കുകയും ചെയ്യുന്ന നടപടി സംബന്ധിച്ച് നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.**

സൂചന :

ഒരു സർവ്വീസ് സഹകരണ ബാങ്കിന്റെ സായാഹ്ന ശാഖയിലെ ജീവനക്കാരി സർവ്വീസിൽ നിന്നും വിരമിക്കുന്ന കാരണത്താൽ യാത്ര അയപ്പ് നൽകുന്നതിനായി അന്നേ ദിവസം ഉച്ചക്കു ശേഷം ശാഖയ്ക്ക് ഒരു മുന്നറിയിപ്പുമില്ലാതെ അവധി നൽകുകയും തദ്വാര ടി ശാഖയുമായി ഇടപാടുള്ള അംഗങ്ങൾക്ക് വളരെയധികം ബുദ്ധിമുട്ടനുഭവപ്പെടുകയും ചെയ്തതായി ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. ജീവനക്കാർ വിരമിക്കുന്നതിനോടനുബന്ധിച്ചുള്ള യാത്രയയപ്പ് നൽകുക തുടങ്ങിയ കാര്യങ്ങൾക്കായി സ്ഥാപനങ്ങളുടെ പ്രവർത്തനം നിർത്തിവയ്ക്കുന്ന നടപടി സ്ഥാപനങ്ങളുമായി ഇടപാടുള്ള അംഗങ്ങൾക്ക് ബുദ്ധിമുട്ടും പ്രയാസവും സഹകരണ സ്ഥാപനങ്ങളെ സംബന്ധിച്ച് പൊതുജനമദ്ധ്യേ മോശമായ അഭിപ്രായം ഉണ്ടാകുകയും ചെയ്യും. പണമിടപാട് നടത്തുന്ന സഹകരണസ്ഥാപനങ്ങൾ ആവശ്യമായ മുന്നറിയിപ്പില്ലാതെ അടച്ചിടുന്ന നടപടി ഇടപാടുകാരുടെ താൽപ്പര്യങ്ങൾ ഹനിക്കുന്നതായാൽ ഇത്തരം സംഭവങ്ങൾ അത്യന്തം ഗുരുതരമായി വീക്ഷിക്കുകയും മേലിൽ ഇപ്രകാരമുള്ള ക്രമക്കേടുകൾ ശ്രദ്ധയിൽപ്പെടുന്ന സഹകരണസംഘങ്ങൾക്കെതിരെ കർശന നടപടികൾ സ്വീകരിക്കുന്നതാണെന്നും അറിയിക്കുന്നു.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

8. WELFARE MEASURES TO EMPLYEES AND OTHER SCHEMES

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22/81	Co-operation-Provident Fund Contribution to the Employees of Co-op: Societies-Instructions issued.	517

Govt.Lr. No.367 / CC3/86/Co-op: Dt. 14-5-1986	Payment of gratuity of employees-Fifteen days wages calculation of – clarification sought for.	518
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G.O.(MS) No. 160/95/Co-op: Dt. 17-11-1995	Co-operation-Rules for the constitution and Administration of the Kerala State Co-operative Employees Welfare Board-Amendment to Rule 20-Approved-Orders issued.	523
G.O. (MS) No. 108/96/CO-OP Dt. 11-11-1996	Co-operation Department- Kerala State Co-operative Employees Welfare Board-Amendment to Rules- approved – orders issued.	524
25/99	സഹകരണ സംഘങ്ങളിലെ ജീവനക്കാർക്ക് ഗ്രാറ്റുവിറ്റി നൽകുന്നതു സംബന്ധിച്ച്.	526

No. BM (2) 12081/2001 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, dated 30-3-2001

CIRCULAR No. 17/2001

Sub **: Kerala State Co-operative Employees Welfare Board - Monthly statement of Employees Welfare Fund to be furnished by the District Co-operative Banks regarding**

Read **: Managing Committee of the Kerala State Co-operative Employees Board held on 27-3-2001**

In the Managing Committee meeting of the Kerala State Co-operative Employees Welfare Board held on 27-3-2001 it was discussed that the statement of accounts in respect of the Welfare Fund contribution remitted by the District Co-operative Banks to the Welfare Board. Hence it is instructed that the monthly statements regarding the remittance of Welfare Fund by the societies should be forwarded to the Secretary of the Welfare before 10th of every month.

Dharam Veer
Registrar of Co-operative Societies

No. WB/CA.B/1311/02 Office of the Kerala State Co-operative Employees Welfare Board, Thiruvananthapuram, Dated 27.05.2002

CIRCULAR No. 1/2002

Sub **: Kerala State Co-operative Employees welfare Board-Cash awards to the S.S.L.C. students of Kalathilakam/Kalaprathibha of the employees**

Ref **: 1. G.O.(MS)No. 88/92 (Co-op) dated 22-10-92**
2. G.O.(MS)No. 128/97 (Co-op) dated 17.10.97
3. G.O.(MS)No. 27/01 (Co-op) dated 31.1.2001

As per the Government Orders cited above, the Kerala State Co-operative Employees Welfare Board has decided to extend cash awards to the children of the employees covered by this scheme who secured first two places at statelevel and first place at district level in the S.S.L.C. examination and award winners of Kalathilakom/ Kalaprathibha in the School Youth Festival at revenue district level and statelevel in every academic year. The benefit of cash award to S.S.L.C. has been extended to the persons who are working in Co-op: institutions as Commission Agents as per the reference 3rd cited.

Hence, 1 request you to bring the notice of this benefits to all Co-op: instgitutions coming under the scheme in your jurisdiction and obtain the applications for cash awards to the children of the employees covered by this scheme who have secured highest marks in the S.S.L.C. examination and Kalathilakam/Kalaprathibha for the academic year-2001-2002.

Those students who intend to apply for the cash award shall submit their applications in the form prescribed in Annexure-IX/Annexure-X (Form No.C 9 for the children of Commission Agents)True Copy of the mark list and biodate of the S.S.L.C. certificate true copy of Kalathilakom/Kalaprathibha Certificate attested by the concerned Headmaster/Headmistress of the School in which the student has studies should be attached with the application for cash award to the S.S.L.C. and Kalathilakom/Kalaprathibha.

Applications should be forwarded on or before 25-6-02 at 5 pm to the Additional Registrar/Secretary-Treasurer of the Kerala State Co-op. Employees Welfare Board duly recommended by the District/Taluk Level Officer of the concerned administrative department and those received after the date will not be considered.

Encl: Applications **Additional Registrar / Secretary - Treasurer**

നമ്പർ സി. ജി. (1) 21402/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 14.07.2003

സർക്കുലർ നമ്പർ 36/2003

വിഷയം : **കേരള സഹകരണ വികസന ക്ഷേമനിധി ബോർഡ് അംഗ സംഘങ്ങളെ ചേർക്കുന്നതിനുള്ള തീവ്ര യത്ന പരിപാടി മാർഗ്ഗനിർദ്ദേശങ്ങൾ സംബന്ധിച്ച്**

സൂചന : **1. 3.7.2002ലെ ജിഒ.പി 108/2000/സഹ. നമ്പർ നോട്ടിഫിക്കേഷൻ.2. 23.62003 ലെ ജി.ഒ.(പി) 127/2003/സഹ നമ്പർ നോട്ടിഫിക്കേഷൻ**
3. സഹകരണ വികസന ക്ഷേമനിധി ബോർഡ് സെക്രട്ടറിയുടെ 26.5.2003

ലെ ജി.20/2003–ാം നമ്പർ കത്ത്

1969 ലെ കേരള സഹകരണ സംഘം നിയമത്തിലെ സെക്ഷൻ 57(എ) യിൽ വ്യവസ്ഥ ചെയ്ത പ്രകാരം കേരള സഹകരണ ക്ഷേമ വികസന സ്കീം 2000 ആവിഷ്കരിക്കുകയും സൂചന (1) ലെ നോട്ടിഫിക്കേഷൻ പ്രകാരം തിരുവനന്തപുരം ആസ്ഥാനമായി കേരള സഹകരണ വികസന ക്ഷേമനിധി ബോർഡ് രൂപീകരിച്ചുകൊണ്ട് സർക്കാർ ഉത്തരവ് പുറപ്പെടുവിക്കുകയുണ്ടായി. പ്രസ്തുത സ്കീമിൽ അംഗങ്ങളാകുന്ന സംഘങ്ങളുടെ ആസ്തി, ഫണ്ട് എന്നിവ വായ്പാ ഇടപാടിനും വികസന പ്രവർത്തനത്തിനും ഉപയോഗിക്കുന്നതുവഴി സംഭവിയ്ക്കാവുന്ന നഷ്ടം നികത്തുന്നതിനും, സംഘങ്ങളുടെ താൽപ്പര്യം സംരക്ഷിക്കുന്നതിന് ഉതകുന്ന വികസനത്തിനും ക്ഷേമത്തിനും വേണ്ടിയാണ് ക്ഷേമനിധി ഉപയോഗിക്കുന്നത്. സഹകരണസംഘം രജിസ്ട്രാറുടെ ഭരണ നിയന്ത്രണത്തിൽ വരുന്ന എല്ലാ സഹകരണ സ്ഥാപനങ്ങൾക്കും, 1969 ലെ കേരള സഹകരണ നിയമപ്രകാരം രജിസ്റ്റർ ചെയ്തിട്ടുള്ളതും, ഈ സ്കീം ബാധകമാക്കിക്കൊണ്ട് സർക്കാർ അതാതു കാലങ്ങളിൽ വിജ്ഞാപനം ചെയ്യുന്നതുമായ സഹകരണ സ്ഥാപനങ്ങൾക്കും ഈ പദ്ധതി ബാധകമായിരിക്കും. കേരള സഹകരണ ക്ഷേമ വികസന സ്കീം 2000ൽ, സംസ്ഥാനത്തെ മുഴുവൻ പ്രാഥമിക സഹകരണ സ്ഥാപനങ്ങളേയും/ബാങ്കുകളേയും. അപ്പക്സ്, സെൻട്രൽ സഹകരണ സ്ഥാപനങ്ങളേയും അംഗമാക്കുക എന്ന ലക്ഷ്യത്തോടെ ഒരു തീവ്രയത്ന പരിപാടി നടപ്പിലാക്കുന്നതിന് 23.05.2003 ന് ചേർന്ന സഹകരണ വികസന ക്ഷേമനിധി ബോർഡിന്റെ ഭരണസമിതി തീരുമാനിച്ചിരിക്കുകയാണ്. സഹകരണ സ്ഥാപനങ്ങളുടെ വികസനം, ക്ഷേമം എന്നിവ ലക്ഷ്യമാക്കിക്കൊണ്ട് പ്രവർത്തിക്കുന്ന സഹകരണ വികസന ക്ഷേമനിധി ബോർഡിന്റെ പ്രസ്തുത തീവ്രയത്ന പരിപാടിയുടെ സുഗമമായ നടത്തിപ്പിന് സഹായകരമാക്കും വിധം താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. ഉദ്ദേശ ലക്ഷ്യം കൈവരിയ്ക്കാൻ സഹകരണ സ്ഥാപനങ്ങൾ പരസ്പരം സഹകരിയ്ക്കണം എന്ന സഹകരണ തത്വം സാർവദേശീയമായി അംഗീകരിക്കപ്പെട്ടതും, ഇത് ഫലപ്രദമായി പ്രാദേശികവും, ദേശീയവും, അന്തർദേശീയവുമായ തലങ്ങളിൽ പ്രായോഗികമായി നടപ്പിലാക്കി സഹകരണ പ്രസ്ഥാനത്തിന് കരുത്തേകിയ അനുഭവങ്ങൾ അനുവർത്തിച്ചുകൊണ്ട് രൂപീകൃതമായ കേരള സഹകരണ ക്ഷേമ വികസന സ്കിം2000 ൽ സംസ്ഥാനത്തെ മുഴുവൻ സഹകരണ സ്ഥാപനങ്ങളും അംഗമായി ചേരുന്നത് അഭിലഷണീയമായിരിക്കുന്നു.

2. കേരള സഹകരണ ക്ഷേമ വികസന സ്കീം2000 ൽ അംഗമാകുന്നതിന് സൂചന 2ലെ സർക്കാർ ഉത്തരവിൽ നി ശ്ചയിക്കപ്പെട്ടിട്ടുള്ള പ്രാഥമിക വിഹിതം, തുടർന്നുള്ള വാർഷിക വരിസംഖ്യ പുതുക്കൽ എന്നിവയ്ക്കാവശ്യമായി വരുന്ന തുക സ്ഥാപനങ്ങളുടെ ജനറൽ ഫണ്ടിൽ നിന്നും വിനിയോഗിക്കാവുന്നതാണ്.

പ്രാഥമിക വിഹിതം: സ്ഥാപനത്തിന്റെ പ്രവർത്തനമൂല്യത്തിന്റെ അടിസ്ഥാനത്തിലാണ് കണക്കാക്കേണ്ടത്. അപ്പെക്സ്, സെൻട്രൽ സഹകരണ സ്ഥാപനങ്ങൾക്ക് ഓരോ 1000/ രൂപയ്ക്കും 2/ രൂപ ക്രമത്തിൽ പരമാവധി 2 ലക്ഷം രൂപയും, മറ്റെല്ലാ സഹകരണ സ്ഥാപനങ്ങൾക്കും ഓരോ 1000/ രൂപയ്ക്കും 1/ രൂപ ക്രമത്തിൽ പരമാവധി 1 ലക്ഷം രൂപയുമാണ് പ്രാഥമിക വിഹിതമായി സംഘങ്ങൾ അടയ്ക്കേണ്ടത്.

വാർഷിക വരിസംഖ്യ പുതുക്കൽ: അപ്പെക്സ്, സെൻട്രൽ സഹകരണ സ്ഥാപനങ്ങൾക്ക് പ്രാഥമിക വിഹിതത്തിന്റെ 10 ശതമാനവും, മറ്റെല്ലാ സഹകരണ സ്ഥാപനങ്ങൾക്കും പ്രാഥമിക വിഹിതത്തിന്റെ 5 ശതമാനവുമാണ് വാർഷിക വരിസംഖ്യ പുതുക്കൽ നിരക്കായി നിശ്ചയിച്ചിരിക്കുന്നത്.

3.റിസർവ്വ് ബാങ്കിന്റെ നിയന്ത്രണത്തിൽ വരുന്ന സഹകരണ സ്ഥിപനങ്ങൾക്ക് ബഹുമാനപ്പെട്ട കേരളാ ഹൈക്കോടതിയുടെ വിധിയുടെ അടിസ്ഥാനത്തിൽ ഈ ക്ഷേമനിധിയിൽ അംഗമാകുന്നതിനും വിഹിതം അടയ്ക്കുന്നതിനും വിവേചനാധികാരം ഉണ്ടായിരിക്കുന്നതാണ്. കൂടാതെ ഇക്കാര്യം റിസർവ്വ് ബാങ്കിന്റെ നിബന്ധനകൾക്കനുസൃതമായിരിക്കുന്നതുമാണ്. സ്കീമിൽ വിഹിതം അടയ്ക്കുന്നതിനെതിരെ ചില സഹകരണസംഘങ്ങൾ ബഹുമാനപ്പെട്ട ഹൈക്കോടതിയിൽ കേസ് ഫയൽ ചെയ്തിട്ടുള്ളതും അതിൻമേൽ അന്തിമ വിധി പുറപ്പെടുവിയ്ക്കാത്തതുമായ സാഹചര്യത്തിൽ സ്കീമിൽ അംഗമാകുന്നതിനും വിഹിതം അടയ്ക്കുന്നതിനും സഹകരണ സ്ഥാപനങ്ങൾക്ക് വിവേചനാധികാരം ഉണ്ടായിരിക്കുന്നതാണ്.

4. തീവ്രയത്ന പരിപാടിയുടെ വിവരം എല്ലാ സഹകരണ സ്ഥാപനങ്ങളുടെയും ശ്രദ്ധയിൽപ്പെടുത്തി, ടി പരിപാടിയുടെ സുഗമമായ നടത്തിപ്പിനും വിജയത്തിനും വേണ്ട പൂർണ്ണ സഹകരണം ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരുടെ ഭാഗത്തുനിന്നും ഉണ്ടാകേണ്ടതാണ്. ഇതിന്റെ പുരോഗതി വിലയിരുത്തുന്നതിലേക്ക്, സ്കീമിൽ അംഗമായി ചേരുന്ന സഹകരണ സ്ഥാപനങ്ങളുടെ പേരു വിവരം, അടച്ച പ്രാഥമിക വിഹിതം എന്നിവയടങ്ങുന്ന പ്രതിമാസ പുരോഗതി റിപ്പോർട്ട് തയ്യാറാക്കി രജിസ്ട്രാർക്ക് സമർപ്പിക്കേണ്ടതും ഒരു പ്രതി ക്ഷേമനിധി ബോർഡ് സെക്രട്ടറിയ്ക്ക് അയച്ചുകൊടുക്കേണ്ടതുമാണ്.

ഈ നിർദ്ദേശങ്ങൾ യഥാവിധി പാലിക്കുന്നുണ്ടെന്ന് ബന്ധപ്പെട്ടവർ എല്ലാം ഉറപ്പുവരുത്തേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

കേരള സ്റ്റേറ്റ് കോ- ഓപ്പറേറ്റീവ് എംപ്ലോയീസ് വെൽഫെയർ ബോർഡ്

സർക്കുലർ നമ്പർ 04/2004

വിഷയം : **ക്ഷേമനിധി വിഹിതവും മറ്റ് ആനുകൂല്യങ്ങളും വർദ്ധിപ്പിച്ചു കൊണ്ടുള്ള ഉത്തരവ്**

സൂചന : **സർക്കാരിന്റെ 22-12-2003 തീയതിയിലെ ജീ.ഒ. (എം.എസ്.) 280/03 (സഹകരണം) നമ്പർ ഉത്തരവ്**

സൂചന പ്രകാരം കേരളാ സ്റ്റേറ്റ് കോ- ഓപ്പറേറ്റീവ് എംപ്ലോയീസ് വെൽഫെയർ ബോർഡിന്റെ ചട്ടങ്ങളിൽ താഴെ പറയുന്ന പ്രകാരം ഭേദഗതികൾ വരുത്തിയിരിക്കുന്ന വിവരം ഇതിനാൽ അറിയിക്കുന്നു.

1. റൂൾ 19 (ബി) : വെൽഫെയർ ബോർഡിൽ അംഗങ്ങളായ ജീവനക്കാരുടെ ക്ഷേമനിധി വിഹിതം 30 രൂപയിൽ നിന്നും 50 രൂപയായും, തുല്യമായ തുക സംഘം/ ബാങ്ക് വിഹിതമായും ആകെ 100 രൂപ ജീവനക്കാരുടെ തസ്തികയിൽ തരം തിരിവി

ല്ലാതെ തന്നെ ഓരോ ജീവനക്കാർക്കു വേണ്ടിയും പ്രതിമാസം ക്ഷേമനിധിയിലേക്ക് അടയ്ക്കേണ്ടതാണ്.

2. **റൂൾ 26 (ഇ) 7** : അംഗങ്ങളായ ജീവനക്കാരുടെ നിശ്ചിത രോഗങ്ങളുടെ ചികിത്സക്ക് നൽകി വരുന്ന ധനസഹായം 25,000 രൂപയിൽ നിന്നും 35,000 രൂപയായി വർദ്ധിപ്പിച്ചു.

ജീവനക്കാരുടെ ആശ്രിതരുടെ ചികിത്സയ്ക്ക് നൽകി വരുന്ന 10,000 രൂപയുടെ ധനസഹായം 15,000 രൂപയായി വർദ്ധിപ്പിക്കുകയും ജീവനക്കാരുടെ ആശ്രിതരായി ഭാര്യ/ഭർത്താവ് അവിവാഹിതരെങ്കിൽ അച്ഛൻ/അമ്മ എന്നിവർക്ക് പുറമെ അവിവാഹിതരും തൊഴിൽരഹിതരുമായ മക്കൾക്കും കൂടി ബാധകമാക്കുകയും ചെയ്തു. ഈ ചികിത്സാ ധന സഹായം ജീവനക്കാരന്റെ സേവന കാലയളവിൽ ഒരിക്കൽ മാത്രമേ നൽകുകയുള്ളൂ.

3. **റൂൾ 26 (എഫ്)** : അംഗങ്ങളായ ജീവനക്കാരുടെ മക്കളിൽ എസ്.എസ്. എൽ.സി. പരീക്ഷയ്ക്ക് ഉന്നതവിജയം കരസ്ഥമാക്കിയ വിദ്യാർത്ഥികൾക്ക് സംസ്ഥാന തലത്തിൽ ഒന്നാം സ്ഥാനത്തിന് 5,000 രൂപയും രണ്ടാം സ്ഥാനത്തിന് 3,000 രൂപയും ക്യാഷ് അവാർഡ് നൽകിയിരുന്നത് പ്ലസ് ടു, വി.എച്ച്.എസ്.ഇ. എച്ച്. ഡി.സി. & ബി. എം.ജെ.ഡി.സി. എന്നീ പരീക്ഷകൾക്കും കൂടി ബാധകമാക്കിയിട്ടുണ്ട്. ജില്ലാ തലത്തിൽ ഒന്നാം സ്ഥാനം ലഭിച്ചവർക്ക് നൽകുന്ന 2000 രൂപയുടെ ക്യാഷ് അവാർഡിന് എസ്.എസ്. എൽ.സി വിദ്യാർത്ഥികളെ മാത്രം പരിഗണിക്കുകയുള്ളൂ.

മേൽപറഞ്ഞ ഭേദഗതികൾക്ക് 01–01–2004 മുതൽ പ്രാബല്യം ഉണ്ടായിരിക്കുന്നതാണ്.

അഡീഷണൽ രജിസ്ട്രാർ/ സെക്രട്ടറി – ട്രഷറർ ഇൻചാർജ്ജ്

കേരള സ്റ്റേറ്റ് കോ – ഓപ്പറേറ്റീവ് എംപ്ലോയീസ് വെൽഫെയർ ബോർഡ്
പി.ബി. നമ്പർ 112, ഓപർബ്രിഡ്ജ് ജംഗ്ഷൻ, തിരുവനന്തപുരം – 695 001.
ഫോൺ : 0471 – 2460339.

നമ്പർ : ജി /1410/2005 തീയതി : 18–04–2005

സർക്കുലർ 1/2005 (കമ്മീഷൻ ഏജന്റ്സ്)

വിഷയം : **കേരള സംസ്ഥാന സഹകരണ കമ്മീഷൻ ഏജന്റുമാർക്കുള്ള ക്ഷേമ നിധി വിഹിതവും മറ്റാനുകൂല്യങ്ങളും വർദ്ധിപ്പിക്കുന്നത് സംബന്ധിച്ച്.**

സൂചന : **08–04–2005 – ലെ ജി.ഒ. (എം.എസ്) നമ്പർ 83/05/സഹകരണ/സർക്കാർ ഉത്തരവ്.**

സൂചനപ്രകാരം കേരളാ സംസ്ഥാന സഹകരണ കമ്മീഷൻ ഏജന്റുമാരുടെ പദ്ധതി ചട്ടങ്ങളിൽ താഴെ പറയുന്ന പ്രകാരം ഭേദഗതികൾ വരുത്തിയും, ആനുകൂല്യങ്ങൾ വർദ്ധിപ്പിച്ചുകൊണ്ട് സർക്കാർ ഉത്തരവായ വിവരം ഇതിനാൽ അറിയിക്കുന്നു.

1). റൂൾ – 7 : പദ്ധതിയിൽ അംഗങ്ങളായ ജീവനക്കാരുടെ ക്ഷേമനിധി വിഹിതം 30/– രൂപയിൽ നിന്നും 50/ രൂപയായും തുല്യ തുക സംഘം വിഹിതമായും ആകെ 100/– രൂപാ പ്രതിമാസം ക്ഷേമനിധിയിലേക്ക് അടയ്ക്കേണ്ടതാണ്.

2). റൂൾ – 10 : പദ്ധതിയിൽ അംഗമായതിന് ശേഷം ജോലിയിലിരിക്കെ മരണപ്പെടുന്ന വ്യക്തിയുടെ ആശ്രിതർക്ക് നൽകിവരുന്ന ധനസഹായം 25,000/– രൂപയിൽ നിന്നും 40,000/– രൂപയായി വർദ്ധിപ്പിച്ചു. മരണാനന്തര സഹായം ലഭിക്കുന്നതിന് ഫോറം നമ്പർ സി. 5 ൽ അപേക്ഷിക്കേണ്ടതാണ്. പ്രസ്തുത അപേക്ഷ 60 ദിവസത്തിനകം സംഘം സെക്രട്ടറി ശുപാർശ ചെയ്ത് ബന്ധപ്പെട്ട താലൂക്ക് ജില്ലാ തല ഉദ്യോഗസ്ഥന്റെ മെലൊപ്പോടുകൂടി വെൽഫെയർ ബോർഡ് സെക്രട്ടറി ട്രഷറർക്ക് അപേക്ഷിക്കേണ്ടതാണ്.

3). റൂൾ – 10 (എ) : അംഗങ്ങളായ ജീവനക്കാർക്ക് താഴെ പറയുന്ന നിശ്ചിത രോഗങ്ങളുടെ ചികിത്സയ്ക്ക് 10,000/– രൂപ ധനസഹായം ഒരു തവണ മാത്രം ലഭിക്കുന്നതാണ്.

1. ക്യാൻസർ
2. ഹൃദയശസ്ത്രക്രിയ
3. വൃക്കമാറ്റി വയ്ക്കൽ
4. രോഗം വന്നോ മറ്റു കാരണങ്ങളാലോ സംഭവിച്ച അംഗവൈകല്യം
5. ജോലിക്ക് ഹാജരാകാൻ പറ്റാത്ത വിധമുള്ള തളർവാതം
6. അപകടത്തിൽ നിന്നുള്ള ഗുരുതരമായ അംഗവൈകല്യം, അപകടം കൊണ്ടോ അസുഖം കൊണ്ടോ മറ്റു കാരണങ്ങളാലോ ഉള്ള നൽപ്പത് ശതമാനം സ്ഥിരമായ ഭാഗീക അംഗവൈകല്യം.
7. തലച്ചോറിനെ ബാധിച്ച മാരകമായ അസുഖം, എപ്പിലപ്സി, മെനിഞ്ചൈറ്റിസ്, എൻസെഫാലിറ്റീസ്, നട്ടെല്ലിന് ബാധിച്ച ഗുരുതരമായരോഗം.

കേരള സ്റ്റേറ്റ് കോ– ഓപ്പറേറ്റീവ് എംപ്ലോയീസ് വെൽഫെയർ ബോർഡ് ചട്ടത്തിലെ അനക്സർ – 8, ഫോറത്തിൽ സംഘം സെക്രട്ടറി ശുപാർശ ചെയ്ത് ബന്ധപ്പെട്ട താലൂക്ക്/ജില്ലാ തല ഉദ്യോഗസ്ഥന്റെ മേലൊപ്പോടുകൂടി അസ്സൽ മെഡിക്കൽ സർട്ടിഫിക്കറ്റ് സഹിതം അപേക്ഷിക്കേണ്ടതാണ്.

4). റൂൾ – 11 : പിരിഞ്ഞു പോകുന്ന സമയത്ത് തുക തിരികെ ലഭിക്കുന്നതിന് ഫോറം നമ്പർ : സി. 6 പൂരിപ്പിച്ച് സംഘം സെക്രട്ടറി ശുപാർശ ചെയ്ത്, ബന്ധപ്പെട്ട താലൂക്ക് /ജില്ലാ തല ഉദ്യോഗസ്ഥന്റെ മേലൊപ്പോടുകൂടി 60 ദിവസത്തിനകം വെൽഫെയർ ബോർഡ് സെക്രട്ടറി – ട്രഷറർക്ക് അപേക്ഷിക്കേണ്ടതാണ്.

മേൽപ്പറഞ്ഞ ഭേദഗതികൾക്ക് 01–07–2004 മുതൽ പ്രാബല്യമുണ്ടായിരിക്കുന്നതും പ്രസ്തുത തീയതി മുതലുള്ള കുടിശ്ശിക അടയ്ക്കേണ്ടതുമാണ്.

അഡീഷണൽ രജിസ്ട്രാർ/സെക്രട്ടറി/ട്രഷറർ

നമ്പർ : സി. ബി. (1) 35370/2004. സഹകരണ സംഘം രജിസ്ട്രാർ ഓഫീസ്, തിരുവനന്തപുരം, തീയതി 01–06–2005

സർക്കുലർ നമ്പർ 20/2005

വിഷയം : സഹകരണ വകുപ്പ് – നിക്ഷേപ ഗ്യാരന്റി സ്കീം നടപ്പിലാക്കുന്നതു സംബന്ധിച്ച് – നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിയ്ക്കുന്നത് – സംബന്ധിച്ച്.

സൂചന : ജി.ഒ. (പി) നമ്പർ 162/2000/സഹ. തീയതി, തിരുവനന്തപുരം, 29–12–2000

സംസ്ഥാനത്തിലെ പ്രവർത്തന രഹിതമായോ, പ്രവർത്തനം മന്ദീഭവിച്ചതോ, ലിക്വിഡേഷനിലോ ഉള്ള പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ ഒഴികെ മറ്റെല്ലാ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾക്കും ബാധകമാക്കിക്കൊണ്ട് നിക്ഷേപ ഗ്യാരന്റി സ്കീം നടപ്പിലാക്കുന്നതിന് സൂചന ഒന്ന് പ്രകാരം ഗവൺമെന്റ് പുതുക്കിയ വിജ്ഞാപനം പുറപ്പെടുവിച്ചുവെങ്കിലും, ടി വിജ്ഞാപന പ്രകാരം എല്ലാ പ്രാഥമിക വായ്പാ സഹകരണസംഘങ്ങളും ഈ പദ്ധതിയിൽ അംഗമായി ചേർന്നിട്ടില്ല എന്ന് 22-02-2005 ന് ബഹു: സഹകരണവകുപ്പ് മന്ത്രിയുടെ അദ്ധ്യക്ഷതയിൽ ചേർന്ന് പദ്ധതിയുടെ നടത്തിപ്പിനുള്ള സംസ്ഥാനതല കമ്മിറ്റിയുടെ യോഗത്തിലും, 28-02-2005 ൽ പാലക്കാട് ചേർന്ന സെൻട്രൽ ബാങ്ക് കോൺഫറൻസിലും വിലയിരുത്തുകയും ചർച്ച ചെയ്തതിന്റെയും അടിസ്ഥാനത്തിൽ അർഹതയുള്ള എല്ലാ പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളെയും ഈ പദ്ധതിയിൻ കീഴിൽ കൊണ്ടു വരണമെന്നു തീരുമാനിക്കുകയുണ്ടായി. യോഗങ്ങളിലെ തീരുമാനങ്ങളുടെ വെളിച്ചത്തിൽ ചുവടെ പറയുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. അർഹതയുള്ള എല്ലാ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങളെയും ഈ പദ്ധതിയിൽ കീഴിൽ കൊണ്ടു വരുന്നതിന് അതാതു ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ പുതുക്കിയ ലിസ്റ്റ് തയ്യാറാക്കി അപ്രകാരമുള്ള എല്ലാ സംഘങ്ങളെയും പദ്ധതിയിൽ ചേരാൻ നിർദ്ദേശം നൽകേണ്ടതും സംഘങ്ങളുടെ പട്ടിക അതാത് ജില്ലാ ബാങ്കിനെ ഉടൻ അറിയിക്കേണ്ടതുമാണ്.

2. തിരുവനന്തപുരം, കാസർഗോഡ് ജില്ലാ സഹകരണ ബാങ്കുകൾ കോർപ്പസ് ഫണ്ടിലേക്ക് നൽകാനുള്ള വിഹിതങ്ങൾ ഉടൻ അടയ്ക്കേണ്ടതാണ്.

3. പ്രാഥമിക സംഘങ്ങളിൽ നിന്നും ലഭിക്കുവാനുള്ള കുടിശ്ശിക തുകയും ബാങ്കു വിഹിതവും അടയ്ക്കാത്ത എറണാകുളം, തൃശ്ശൂർ ജില്ലാ സഹകരണ ബാങ്കുകൾഉടൻ ടി തുക അടയ്ക്കേണ്ടേതാണ്.

4. ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ)മാരും, അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരും പ്രാഥമിക വായ്പാ സംഘങ്ങളുടെ പ്രതിമാസ അവലോകന സമ്മേളനങ്ങളിൽ ഈ പദ്ധതിയുടെ പ്രവർത്തനം കൃത്യമായി വിലയിരുത്തേണ്ടുന്നതും പദ്ധതിയിൽ എല്ലാ സംഘങ്ങളും ഉൾപ്പെട്ടിട്ടുണ്ടെന്ന് ഉറപ്പു വരുത്തേണ്ടതുമാണ്. പദ്ധതിയുടെ നടത്തിപ്പിനായി നിശ്ചയിച്ചിട്ടുള്ള ജില്ലാ തല കമ്മിറ്റി ഉടൻ വിളിച്ചു കൂട്ടുന്നതിന്, ജില്ലാ ബാങ്ക് ജനറൽ മാനേജർമാർ നടപടി സ്വീകരിക്കേണ്ടതും, ഇപ്രകാരം വിളിച്ചു കൂട്ടുന്നു എന്നു ജോയിന്റ് രജിസ്ട്രാർ ഉറപ്പു വരുത്തേണ്ടതുമാണ്.

5. എല്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരും പദ്ധതിൽ ചേരാൻ അർഹതയുള്ള സംഘങ്ങൾ, പദ്ധതിയിൽ ഉൾപ്പെട്ടിട്ടുള്ള സംഘങ്ങൾ, കോർപ്പസ് ഫണ്ടിലേക്ക് സംഘങ്ങൾ അടച്ചിട്ടുള്ള തുക, ജില്ലാ ബാങ്കുകൾ അടച്ചിട്ടുള്ള തുക, സംസ്ഥാന സഹകരണ ബാങ്കിന്റെ വിഹിതം, സർക്കാർ വിഹിതം ഇവ കാണിക്കുന്ന വിശദമായ ത്രൈമാസിക സ്റ്റേറ്റ്മെന്റ് തയ്യാറാക്കി രജിസ്ട്രാർക്ക് യഥാസമയം സമർപ്പിക്കേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

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55/82	ST loans for agriculture-Insistence of drawal of B component-Instructions issued	730
69/82	ബാങ്കിംഗ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരാത്ത സംഘങ്ങൾ നിക്ഷേപങ്ങൾക്കു നൽകുന്ന പലിശ നിരക്ക് സംബന്ധിച്ച നിർദ്ദേശങ്ങൾ	732
51/83	സംയോജിത ഗ്രാമ വികസന പദ്ധതി – ഓഹരി അനുപാതത്തിൽ ഇളവ് അനുവദിക്കുന്നത് സംബന്ധിച്ച്	733
5/84	I.R.D.P. loans-recovery of overdues under Revenue Recovery Act-instructions issued.	733
48/84	Loans by Harijan/Girijan Societies-Standards of Security-Orders issued.	735
2/85	Sanction of loans to nonmembers and loans for periods longer than 5 years by Co-operatives-Instructions issued.	736
4/85	Primary Agricultural Credit Societies-Maximum Borrowing Power-Enhancement of limit-Order issued.	737
25/87	പ്രാഥമിക കാർഷിക വികസന ബാങ്കുകൾ സംയോജിത ഗ്രാമ വികസന പദ്ധതി പ്രകാരം നൽകുന്ന ഓഹരി അനുപാതത്തിൽ ഇളവ് അനുവദിക്കുന്നത് സംബന്ധിച്ച്.	738

Cir.No.CG(1) 64914/87 Dt. 20-8-88	IRDP –Loans under IRDP through Co-operatives-Security requirements-Reg.	739
15/88	NATIONAL SAVINGS CERTIFICATES AND INDIRA VIKAS PATRAS-Advances by Primary Agricultural Credit Societies against the security of Instructions-Issued.	740
5/90	പ്രാഥമിക സഹകരണ സംഘങ്ങളിൽ ലാന്റ് രജിസ്റ്റർ സൂക്ഷിക്കുന്നത് സംബന്ധിച്ച്.	741
19/90	Disbursement of long-term loans simplification of procedure-Modification-reg.	742
34/90	സഹകരണ സംഘങ്ങൾ– വായ്പാ തുകകൾ അനാമത്ത് സസ്പെൻസ് കണക്കിൽ വരവ് വെക്കുന്നത് സംബന്ധിച്ച്.	743
38/90	Endorsement in Ration Cards for Loans upto Rs. 50,000/- Instruction issued.	744
Lr.No.CG(1) 27112/89 Dt. 17-6-1991	Endorsement of Ration Cards for loans upto Rs. 50,000/- regarding.	745
28/91	Primary Co-operative Agricultural land Rural Development Banks-Application fees, administration Fees etc., collected from applicants revised rules-ordered.	746
41/91	Short-term Agricultural Advances by Co-operatives-Interest charged from members not to exceed the Principal amount-Instructions-	747
23/92	Agricultural loans issued by the PACS – Declining trend noticed	748
47/92	District Co-operative Banks-Loans and advances made without bye-law provision-exemption from provisions under KCS Act and Rules-creation of posts without sanction-etc., instructions-issued.	749
48/92	സഹകരണ സംഘങ്ങളിൽ വായ്പക്കു വേണ്ടി സമർപ്പിക്കുന്ന അപേക്ഷയോടൊപ്പം നൽകുന്ന റിക്കാർഡുകൾക്ക് രസീത് നൽകുന്നത് സംബന്ധിച്ച്.	750
26/93	സഹകരണ സംഘങ്ങളിലെ അംഗങ്ങൾ വായ്പകളിലോ മറ്റു ബാധ്യതകളിലോ നൽകാനുള്ള തുക ഭാഗികമായി അടക്കുമ്പോൾ അംഗങ്ങൾക്ക് നൽകുന്ന രസീതുകളിൽ ബാക്കി നിൽക്കുന്ന തുക കാണിക്കുന്നത് സംബന്ധിച്ച് നിർദ്ദേശങ്ങൾ.	751
28/93	കൃഷി ആവശ്യങ്ങൾക്കായി നൽകുന്ന വായ്പയും ആനുകൂല്യങ്ങളും പൂർണ്ണമായി കൃഷിക്കായി ഉപയോഗിക്കാൻ നടപടി–സംബന്ധിച്ച്.	752
36/93	പ്രാഥമിക കാർഷിക സഹകരണ സംഘങ്ങൾക്കും ഫാർമേഴ്സ് സർവീസ് സഹകരണ ബാങ്കുകൾക്കും നൽകുന്ന വായ്പകളും അവയുടെ പരിധികളും സംബന്ധിച്ച ഉത്തരവ്. 1949 ലെ ബാങ്കിംഗ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരാത്ത കാർഷികേതര വായ്പാ സഹകരണ സംഘങ്ങൾക്കും കൂടി ബാധകമാക്കിക്കൊണ്ട് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്.	752
52/93	പ്രാഥമിക കാർഷിക സഹകരണ സംഘങ്ങൾ, ഫാർമേഴ്സ് സർവീസ് സഹകരണ ബാങ്കുകൾ, ബാങ്കിംഗ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരാത്ത കാർഷികേതര വായ്പാ സംഘങ്ങൾ എന്നിവക്ക് നൽകാവുന്ന വായ്പകളും അവയുടെ പരിധികളും സംബന്ധിച്ച് ഉത്തരവ് – സ്വർണ്ണപ്പണയ വായ്പ നൽകുന്നതിന് ജീവനക്കാരുടെ സഹകരണ സംഘങ്ങൾക്കു കൂടി ബാധകമാക്കുന്നതു സംബന്ധിച്ച്.	753

7/94	Financing of SRTO and NFS loans on personal securities valuation of hypotheca-clarification issued	754
22/94	Disbursement of long-term loans-simplification of procedure Modification-Regarding.	755
22/95	Linking of share holding for agricultural advances at various levels of co-operative institutions – revision of ratio of share linking-reg.	757
28/96	സഹകരണ വകുപ്പ്–സഹകരണ സംഘങ്ങൾ പിരിച്ചു കിട്ടുന്ന വായ്പാ തുകയും പലിശയും ജീവനക്കാരുടെ ശമ്പളചെലവിനും മറ്റും വിനിയോഗിക്കുന്ന പ്രവണത നിരുത്സാഹപ്പെടുത്തുന്നതു സംബന്ധിച്ച്.	758
8/97	പ്രാഥമിക സഹകരണ സംഘങ്ങളിൽ പലിശ നിരക്ക് ഏകീകരിക്കുന്നത് സംബന്ധിച്ച്	758
2/98	Housing-Primary Housing Co-operative Societies Miscellaneous Charges realised from members Rates of legal fees-Revised-Orders issued.	759
18/98	പ്രാഥമിക കാർഷിക വായ്പാ / സഹകരണ സംഘങ്ങൾക്കും ഫാർമേഴ്സ് സർവീസ് സഹകരണ ബാങ്കുകൾക്കും നൽകാവുന്ന വായ്പകളും അവയുടെ പരിധികളും നിശ്ചയിക്കുന്നത് സംബന്ധിച്ച്–ഉത്തരവ്.	760
21/98	സഹകരണം–സഹകരണ ക്രെഡിറ്റ് പ്ലാൻ തയ്യാറാക്കുന്നതു സംബന്ധിച്ച് വിദഗ്ദ്ധസമിതി ശുപാർശ.	762
40/98	Financing self Help Group by Primary Agricultural Credit Societies-Amendment of Bye-laws-regarding.	763
45/98	സഹകരണം–പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങളുടെ പ്രവർത്തനം മെച്ചപ്പെടുത്തുന്നതിനുള്ള വിദഗ്ദ്ധ സമിതി ശുപാർശ നടപ്പിലാക്കുന്നതു സംബന്ധിച്ച്.	763
14/99	പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ സ്വീകരിക്കുന്ന നിക്ഷേപങ്ങൾക്ക് നിശ്ചിത നിരക്കിൽ കൂടുതൽ പലിശ നൽകുന്നതു സംബന്ധിച്ച്.	764
42/99	Disbursement of Loan-Long Term Loans-Simplification of-Procedure-Modification-Regarding.	765
2/2000	Co-op. Department Short term Agricultural Advance by Co-operatives Interest charged from members not to exceed principal amount instructions cancelled.	767
3/2000	പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ, ഫാർമേഴ്സ് സർവീസ് സഹകരണ ബാങ്കുകൾ, ബാങ്കിംഗ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരാത്ത കാർഷികേതര വായ്പാ സഹകരണ സംഘങ്ങൾ എന്നിവയിൽ നിന്നും നൽകാവുന്ന വിവിധയിനം വായ്പകളുടെ പരിധി വർദ്ധിപ്പിക്കുന്നത് സംബന്ധിച്ച്	767
G.O.(P) No.149/ 2000/Co-op. Dt. 17-11-2000	exemption for all the Primary Agricultural Credit Societies from the provision of sub-section (1) of section 59 of the KCS Act	770

നമ്പർസി.ജി.(1)7766/2000 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്, തിരുവനന്തപുരം, 28.8.2000.

സർക്കുലർ നമ്പർ 12/2000

വിഷയം: കാർഷികവായ്പാ സഹകരണസംഘങ്ങൾ 3.3.2000 മുതൽ 31.3.2000 വരെ നടത്തുന്ന 21..ാമത് സഹകരണ നിക്ഷേപസമാഹരണ യജ്ഞ

ത്തോടൊപ്പം കുടിശ്ശിക നിവാരണ മാസം ആചരിക്കുന്നത് സംബന്ധിച്ച്.

സൂചന: 9.2.2000 ൽ തിരുവനന്തപുരത്ത് സംസ്ഥാന സഹകരണ ബാങ്ക് കോൺഫറൻസ് ഹാളിൽ കൂടിയ ജില്ലാ സഹകരണബാങ്കുകളുടെ സമ്മേളന തീരുമാനം

സംസ്ഥാനത്തൊട്ടാകെ വായ്പാ സഹകരണ സംഘങ്ങളുടെയും/ ബാങ്കുകളുടെയും കുടിശ്ശിക നിലവാരം കുറയ്ക്കുന്നതിനുവേണ്ടി 3.3.2000 മുതൽ 31.3.2000 വരെ നടത്തുന്ന 21.ാമത് സഹകരണ നിക്ഷേപ സമാഹരണ യജ്ഞത്തോടൊപ്പം കുടിശ്ശിക നിവാരണ മാസമായും ആചരിക്കുന്നതിനും പ്രസ്തുത കാലയളവിൽ കുടിശ്ശിക അടയ്ക്കു ന്നവർക്ക് പിഴപലിശ ഒഴിവാക്കിക്കൊടുക്കുന്നതിനുള്ള നടപടി സ്വീകരിക്കുന്നതിനും സൂചന പ്രകാരം തീരുമാനിക്കുകയുണ്ടായി. പ്രസ്തുത തീരുമാനത്തിന്റെ അടിസ്ഥാനത്തിൽ കുടിശ്ശിക നിവാരണം ഫലപ്രദമായി നടപ്പിലാക്കുന്നതിന് താഴെപ്പറയുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. 21.ാമത് സഹകരണ നിക്ഷേപ സമാഹരണ യജ്ഞത്തോടൊപ്പം 3.3.2000 മുതൽ 31.3.2000 വരെ കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ കുടിശ്ശിക നിവാരണ മാസമായി ആചരിക്കുന്നതാണ്.

2. ഈ കാലയളവിൽ കുടിശ്ശിക തുക പൂർണ്ണമായും തിരികെ അടയ്ക്കുന്ന അംഗങ്ങൾക്ക് പിഴപ്പലിശ ഇളവ് ചെയ്തുകൊടുക്കേണ്ടതും ഇതുമൂലമുണ്ടാകുന്ന ബാദ്ധ്യത അതാത് സംഘങ്ങൾ തന്നെ വഹിക്കേണ്ടതുമാണ്.

3. കുടിശ്ശിക നിവാരണ പരിപാടിക്ക് വിപുലമായ പ്രചരണം നൽകേണ്ടതും ഇതിലേക്ക് സംഘങ്ങൾ ലഘുലേഖകൾ/ നോട്ടീസുകളിലൂടെയും മറ്റ് മാദ്ധ്യമങ്ങളിലൂടെയും അംഗങ്ങളെ ബോധവൽക്കരിക്കേണ്ടതാണ്.

4. നിക്ഷേപ സമാഹരണ യജ്ഞത്തിന്റെ സംസ്ഥാനതലത്തിലും ജില്ലാതലത്തിലും നടത്തുന്ന ഉദ്ഘാടന പരിപാടികളിലും പ്രചരണ പ്രവർത്തനങ്ങളിലും കുടിശ്ശിക നിവാരണ പരിപാടി കൂടി ഉൾപ്പെടുത്തേണ്ടതാണ്.

5. കുടിശ്ശിക നിവാരണ പരിപാടിയുടെ വിജയകരമായ നടത്തിപ്പിനായി ജില്ലാ തലത്തിലും സർക്കിൾ തലത്തിലും സംഘം തലത്തിലും താഴെപ്പറയും പ്രകാരം കമ്മിറ്റികൾ രൂപീകരിക്കേണ്ടതാണ്.

1) ജില്ലാതല കമ്മിറ്റി

1. പ്രസിഡന്റ്, ജില്ലാ / സഹകരണബാങ്ക് (ചെയർമാൻ)
2. പ്രസിഡന്റ്, ജില്ലാ പഞ്ചായത്ത്
3. ജില്ലാ സഹകരണബാങ്ക് ഭരണസമിതി അംഗങ്ങൾ
4. ജില്ലയിലെ സർക്കിൾ സഹകരണ യൂണിയൻ ചെയർമാൻമാർ.
5. ജനറൽ മാനേജർ, ജില്ലാ സഹകരണബാങ്ക്
6. സംസ്ഥാന സഹകരണബാങ്ക് ബ്രാഞ്ചിന്റെ മാനേജർ / റീജിയണൽ ഓഫീസർ.
7. ജോയിന്റ് രജിസ്ട്രാർ (ആഡിറ്റ്)
8. ജില്ലയിലെ പ്രമുഖ സഹകാരികൾ,

9. ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) (കൺവീനർ)

2. സർക്കിൾ തല കമ്മിറ്റി

1. ചെയർമാൻ, സർക്കിൾ സഹകരണ യൂണിയൻ (ചെയർമാൻ)
2. സർക്കിളിലുള്ള ബ്ലോക്ക് പഞ്ചായത്ത് പ്രസിഡന്റുമാർ.
3. ജില്ലാ സഹകരണബാങ്ക്, ബ്രാഞ്ച് മാനേജർ.
4. ജില്ലാ സഹകരണബാങ്കിന്റെ ആ പ്രദേശത്തെ ഭരണസമിതിയംഗം
5. ജില്ലാ സഹകരണബാങ്ക് എക്സിക്യൂട്ടീവ് ആഫീസർ.
6. അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ആഡിറ്റ്)
7. അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ കൺവീനർ)

3. സംഘം തല കമ്മിറ്റി

1. സംഘം പ്രസിഡന്റ് (ചെയർമാൻ)
2. പ്രസിഡന്റ്, ഗ്രാമപഞ്ചായത്ത്
3.എല്ലാ സംഘം ഭരണസമിതി അംഗങ്ങളും
4.ഗ്രാമപഞ്ചായത്ത് സെക്രട്ടറി
5. വില്ലേജ് ഓഫീസർ
6. പ്രധാനപ്പെട്ട പൊതുപ്രവർത്തകർ
7. സംഘത്തിന്റെ ചുമതലയുള്ള ഡിപ്പാർട്ടുമെന്റ് ഉദ്യോഗസ്ഥൻ
8. ചീഫ് എക്സിക്യൂട്ടീവ് (കൺവീനർ)

4. സംഘം തല സ്റ്റിയറിംഗ് കമ്മിറ്റി

1. സംഘം പ്രസിഡന്റ് (ചെയർമാൻ)
2. സംഘത്തിന്റെ ചീഫ് എക്സിക്യുട്ടീവ് (മെമ്പർ / കൺവീനർ)
3. സംഘത്തിന്റെ ചുമതലയുള്ള യൂണിറ്റ് ഇൻസ്പെക്ടർ.

5. ഈ പരിപാടിയുടെ വിജയകരമായ നടത്തിപ്പിനുള്ള പൂർണ്ണ ചുമതല സ്റ്റിയറിംഗ് കമ്മിറ്റിക്കായിരിക്കുന്നതും ഓരോ സംഘവും താഴെപ്പറയുന്ന വിവരങ്ങൾ ഉൾക്കൊള്ളുന്ന പട്ടികജാ തി 2.3.2000 നു മുമ്പ് തയ്യാറാക്കേണ്ടതും ആയതിന്റെ ഒരു പകർപ്പ് ജനറൽവിഭാഗം അസിസ്റ്റന്റ് രജിസ്ട്രാർക്ക് നൽകേണ്ടതുമാണ്.

1. ക്രമനമ്പർ
2. വായ്പാനമ്പർ
3.അംഗത്തിന്റെ പേരും നമ്പറും
4. വായ്പ അനുവദിച്ച തിയതി
5.വായ്പ കുടിശ്ശികയായ തിയതി
6. കുടിശ്ശിക തുക
   എ) മുതൽ
   ബി) പലിശ
   സി പിഴപലിശ
   ഡി മറിനം

6. ടി വിവരം തയ്യാറാക്കിയ ശേഷം കമ്മിറ്റിയംഗങ്ങൾ നേരിട്ട് കുടിശ്ശികക്കാരെക്കണ്ട് കുടിശ്ശിക തുക അടപ്പിക്കുന്നതിനുള്ള ബോധവൽക്കരണം നടത്തേണ്ടതാണ്.കുടിശികക്കാർക്ക് നോട്ടീസ് നൽകേണ്ടതുമാണ്. ഊർജ്ജിത കുടിശ്ശിക നിർമ്മാർജ്ജന പദ്ധതി നടപ്പിലാക്കുന്നതിനും ടി കാലയളവിൽ കുടിശ്ശിക

തുക തിരിച്ചടക്കുന്നവർക്ക് പിഴപ്പലിശഇളവ് ചെയ്തു കൊടുക്കുന്നതിനും ഓരോ സംഘവും മതിയായ ഭരണസമിതി തീരുമാനംകൈക്കൊള്ളേണ്ടതാണ്.

7. ഓരോ പ്രാഥമിക കാർഷിക വായ്പാ സംഘവും താഴെപ്പറയുന്ന വിവരങ്ങൾ ഉൾക്കൊള്ളുന്ന പട്ടിക ടി കാലയളവിലെ എല്ലാ തിങ്കളാഴ്ചയും അതാത് താലൂക്ക് ജനറൽ വിഭാഗം അസിസ്റ്റന്റ് രജിസ്ട്രാർക്ക് നൽകേണ്ടതാണ്.

1. സംഘത്തിന്റെ പേര്
2. കുടിശ്ശിക കണക്കാക്കിയ ആകെ വായ്പയുടെ എണ്ണം (പരിപാടി ആരംഭിച്ചപ്പോൾ)
3. കുടിശ്ശിക അടച്ചുതീർത്ത വായ്പകളുടെ എണ്ണം
4. കുടിശ്ശിക പിരിച്ച തുക

എ. മുതൽ

ബി. പലിശ

സി. മറ്റ് ഇനങ്ങൾ

5. ഇളവ് ചെയ്ത പിഴപ്പലിശ

ഈ പ്രത്യേക കുടിശ്ശിക നിർമ്മാർജ്ജന പരിപാടിയുടെ വിജയകരമായ പ്രവർത്തനത്തിന് ടി കമ്മിറ്റിയിൽ ആവശ്യമായ നടപടികൾ സ്വീകരിക്കേണ്ടതാണ്. ഈ കാലയളവിൽ ഓരോ സംഘത്തിന്റെയും കുടിശ്ശിക പൂർണ്ണമായും പിരിച്ചെടുക്കുന്നതിന് ഫലപ്രദമായ പ്രവർത്തന പരിപാടി തയ്യാറാക്കി നടപ്പിലാക്കേണ്ടതുമാണ്. ജില്ലാതലത്തിൽ ഇക്കാര്യത്തിലുള്ള പ്രവർത്തനം അതാത് ജോയിന്റ് രജിസ്ട്രാർ(ജനറൽ) ആന്റ് (ആഡിറ്റ്)ഏകോപിച്ച് നടപ്പിലാക്കേണ്ടതാണ്. ഈ പരിപാടിയുടെവിജയകരമായ നടത്തിപ്പിന് ഡിപ്പാർട്ടുമെന്റിലേയും സഹകരണ സ്ഥാപനങ്ങളിലേയും എല്ലാ തലത്തിലുള്ള ഉദ്യോഗസ്ഥൻമാരുടെ സജീവപങ്കാളിത്തം ഉണ്ടാകേണ്ടതാണ്.

വി.പി.ജോയ് ഐ.എ.എസ്.

സഹകരണ സംഘം രജിസ്ട്രാർ

GOVERNMENT OF KERALA

Food & Civil Supplies (B) Department

No.7755/B1/2000/F & CSD Thiruvananthapuram, Dated 16-10-2000

CIRCULAR

Sub : **Avoidance of misuse of ration cards - use of documents other than family ration cards for identification purpose-Regarding.**

At present several Government authorities insist on production of ration cards either singly of along with other documents for purpose of identify for availing benefits of various public services. Therefore ration cards are claimed even by these who have no intention of buying ration articles. The prevalence of such cards loads to large scale leakages of essential ration items. Misuse of family ration cards lead to circulation of a number of false ration cards also in the State. Government of India in letter dated, 28-6-2000 have stressed the need to stop misuse of family ration cards and to adopt alternative method for identification. So as to avoid misuse of ration cards, it has been felt desirable that other alternative methods have to be used for identification of persons viz. Passport, driving licence, voter's identify card, bank pass book, Electricity

payment bills or identify card issued by the income tax authorities for veryfying the identity of individuals. Those departments are also be requested to issued necessary instructions to the concerned officers/agencies coming under their administrative control to this effect. This has the approval of the Chief Minister.

Dinesh Sarama
Secretary to Government

നമ്പർ. സി.ബി.(1) 27812/2001 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 27.9.01

സർക്കുലർ നമ്പർ 35/01

വിഷയം : **സംസ്ഥാനത്തെ സഹകരണ വായ്പാ മേഖലയിലെ കുടിശ്ശിക വായ്പ കണക്ക വസാനിപ്പിക്കുന്നതിന് "വൺടൈം സെറ്റിൽമെൻറ്" നടപ്പിലാക്കുന്നത് സംബന്ധിച്ച്.**

സംസ്ഥാനത്തെ സഹകരണ മേഖലയിലെ വിവിധ സ്ഥാപനങ്ങളിൽ നിന്നും നൽകിയിട്ടുള്ള വായ്പകളിൽ ഭൂരിഭാഗവും കുടിശ്ശികയായി നിലനിൽക്കുന്നതായും തന്മൂലം അംസങ്ങൾക്കും സ്ഥാപനങ്ങർക്കും പലവിധത്തിലുള്ള ബുദ്ധിമുട്ടുകൾ അനുഭവപ്പെടുന്നതായും സർക്കാരിന്റെ ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ട്. കൂടാതെ വായ്പക്കാർ പിഴപ്പലിശ, കൂട്ടുപലിശ എന്നീ ഇനങ്ങളിൽ ഭീമമായ സംഖ്യ ഒടുക്കേണ്ടിവരുന്നതായും കാണുന്നു. ഇതിന് ഒരു പരിഹാരം കാണുന്നതിന് വേണ്ടി സംസ്ഥാന സഹകരണബാങ്ക്, ജില്ലാ സഹകരണ ബാങ്കുകൾ, സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്ക്, സംസ്ഥാന സഹകരണ ഹൗസിംഗ് ഫെഡറേഷൻ എന്നിവയുടെ പ്രസിഡൻറ്, ചീഫ് എക്സിക്യൂട്ടീവുമാർ എന്നിവരുടെ യോഗം സർക്കാർ തലത്തിൽ 6-9-2001 ൽ വിളിച്ചു കൂട്ടുകയുണ്ടായി ടി യോഗത്തിൽ 31.3.2001 വരെ കടിശ്ശികയായ വായ്പകൾക്ക് "വൺ ടൈം സൈറ്റിൽമെൻറ്" എന്ന നിലയിൽ പിഴപലിശയും, കൂട്ടുപലിശയും ഒഴിവാക്കി ഡോക്കമെൻറ് നിരക്കോ, ഇന്നത്തെ നിരക്കോ ഏതാണകുറവ് ആ നിരക്കിൽ പലിശ കണക്കാക്കി വായ്പ കണക്കവസാനിപ്പിക്കാൻ കുടിശ്ശികക്കാർക്കും സ്യൂട്ടു കണക്കിൽപ്പെട്ടർക്കും 31.3.2001 വരെ അവസരം നൽണമെന്നും "വൺടൈം സൈറ്റിൽമെൻറ്" നടപ്പാക്കാൻ സംഘങ്ങൾക്ക് അനുവാദം നൽകണമെന്നും തീരുമാനിക്കുയുണ്ടായി.

മേൽ സാഹചര്യത്തിൽ സംസ്ഥാന സഹകരണ ബാങ്ക്, ജില്ലാ സഹകരണ ബാങ്കുകൾ, സംസ്ഥാന സഹകരണ കാർഷികഗ്രാമ വികസന ബാങ്ക്. സംസ്ഥാന സഹകരണ ഹൗസിംഗ് ഫെഡറേഷൻ, പ്രൈമറി ക്രെഡിറ്റ് സംഘങ്ങൾ എന്നിവയ്ക്ക് 31.3.2002 നുളളിൽ "വൺ ടൈം സെറ്റിൽമെൻറ്" നടപ്പാക്കാൻ ഇതിനാൽ അനുവാദം നൽകുന്നു. ടി. സമയപരിധിക്കുളളിൽ തവണ വ്യവസ്ഥയിലും കുടിശ്ശിക തുക മുഴുവനായും അടച്ച് വായ്പ കണക്ക് അിസാനിപ്പിക്കുന്നവർക്കും ഈ ആനുകൂല്യം അനുവദിച്ച് നൽകാവുന്നതാണ്. ഇപ്രകാരം വായ്പ തിരിച്ചടക്കുന്ന കേസുകളിൽ പിഴപലിശ, കൂട്ടുപലിശ എന്നിവ ഒഴിവാക്കി ഡോക്കുമെൻറ് നിരക്കോ, ഇന്നത്തെ നിരക്കോ എതാണോ കുറവ് ആ നിരക്കിൽ പലിശ കണക്കാക്കി വായ്പ കണക്ക് അവസാനിപ്പിക്കേണ്ടതാണ്.

സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്

നമ്പർ സി.ബി.(4) 42360/2001 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തിയതി 29.11.2001

സർക്കുലർ നമ്പർ 41/2001

വിഷയം : **വൺ ടൈം സെറ്റിൽമെൻറ് പദ്ധതി നടപ്പിലാക്കുന്നതിന് സംസ്ഥാനത്തെ സഹകരണ അർബൻ ബാങ്കുകൾക്ക് പ്രത്യേക നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 27.9.2001 തിയതിയിലെ 35/2000 സർക്കുലർ**

2. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 12.10.2001, 13.11.2001 എന്ന തിയതികളിലെ സി.ബി. (1) 2781/2001 നമ്പർ കത്തുകൾ

3. റിസർവ്വ് ബാങ്കിൻെറ 31.10.2001 തിയതിയിലെ എ.ബി.ഡി. നമ്പർ ബി. F k \U n1k nF k v111205051 2001-2002

സഹകരണസംഘം രജിസ്ട്രാറുടെ ഭരണ നിയന്ത്രണത്തിൽ വരുന്ന സഹകരണസ്ഥാപനങ്ങളിലെ വായ്പ കുടിശ്ശിക കുറക്കുന്നതിൻെറ ഭാഗമായി സൂചന 1 se k Ài pe À {] l mtcw "വൺ ടൈം സെറ്റിൽമെൻറ് പദ്ധതി നടപ്പാക്കുന്നതിന് നിർദ്ദേശിച്ചിരുന്നു. സൂചന (2) ലെ കത്തുകൾ പ്രകാരം പ്രസ്തുത പദ്ധതി നടപ്പിൽ വരുത്തുന്നത് സംബന്ധിച്ചുള്ള മാഗ്ഗ നിർദ്ദേശങ്ങളും പുറപ്പെടുവിക്കുകയുണ്ടായി.

റിസർവ് ബാങ്ക് ഓഫ് ഇൻഡ്യ ബാങ്കിംഗ്റഗുലെഷൻ അക്ടിൻെറ പരിധിയിൽ വരുന്ന അർബൻ ബാങ്കുകളിലും ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി നടപ്പാക്കുന്നതിനുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങൾ സൂചന (3) പ്രകാരം പുറപ്പെടുവിച്ചിട്ടുണ്ട്. ടി നിർദ്ദേശങ്ങൾ മാതൃകയായി കണക്കാക്കി ആവശ്യമായ മാറ്റങ്ങളോടെ ഈ പദ്ധതി നടപ്പാക്കുന്നതിന് വേണ്ട ഉത്തരവ് സർക്കാർ നൽകേണ്ടതാണെന്നും നിർദ്ദേശിച്ചിട്ടുണ്ട്. ഇതിൻെറ അടിസ്ഥാനത്തിൽ അർബൻ ബാങ്കുകളുടെ നടപടികൾക്കായി താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾകൂടി പുറപ്പെിുവിക്കുന്നു.

1. 31.3.2001 വരെയുള്ള കാലാവധി കഴിഞ്ഞകുടിശ്ശികയായെല്ലാത്തരം വായ്പകൾക്കും ഇത് ബാധകമായിരിക്കും.

2. വായ്പയുടെ പലിശ കുടിശ്ശിക തിയതി മുതൽ എഗ്രിമെൻറ് പ്രകാരമുള്ള പലിശ ബാങ്കിൻെറ മിനിമം ലെൻഡിംഗ് നിരക്ക് നിലവിലുള്ള നിരക്ക് ഇവയിലേതാണോ കുറവ് ആ നിരക്കിൽ കണക്കാക്കേണ്ടതാണ്.

3. താഴെപ്പറയുന്ന വായ്പകൾക്ക് ഈ പദ്ധതി ബാധകമായിരിക്കുന്നതല്ല.

1. മനപൂർവ്വമായി വീഴ്ച വരുത്തിയ വായ്പ.

2. കൃത്യമായി രേഖ ചമച്ചെടുത്തിട്ടുള്ളവയെന്നു കണ്ടെത്തുന്ന വായ്പകൾ

3. ശമ്പളത്തിൽ നിന്നും ഈടാക്കാനുള്ള വ്യവസ്ഥയിൽ ജീവനക്കാർക്ക് നൽകിയിട്ടുള്ള വായ്പകൾ.

4. ബാങ്ക് ഭരണസമിതി അംഗങ്ങൾക്ക് നൽകിയിട്ടുള്ളതോ അവരുടെ ഉറപ്പിൻമേലോ പ്രത്യേക താൽപ്പര്യത്തിൻമേലോ കമ്പനികൾക്കോ മറ്റു സ്ഥാപനങ്ങൾക്കോ നൽകിയിട്ടുള്ള വായ്പകൾ.

5. സർക്കാർ ഗ്യാരണ്ടിയുള്ള വായ്പകൾ.

6. സർക്കാരിനോ സർക്കാർ സ്ഥാപനങ്ങൾക്കോ നൽകിയ വായ്പകൾ.

7. സർക്കാർ പദ്ധതിയിൽ ഉൾപ്പെട്ട വായ്പകൾ.

4. ഈ പദ്ധതിപ്രകാരം വായ്പകണക്ക് അവസാനിപ്പിക്കുന്നതിനുള്ള അപേക്ഷകൾ പരിഗണിക്കുന്നതിന് കുടിശ്ശിക വായ്പയുടെ 10% ത്തിൽ കുറയാത്ത തുക ടി കണക്കിൽ അടച്ച് അതാത് ബാങ്കുകളിൽ അപേക്ഷ നൽകേണ്ടതാണ്. തുടർന്ന് ഒരു വർഷത്തിനുളളിൽ മൊത്തമായോ തവണകളായോ അടച്ചുതീർക്കുന്നതിന് അനുവദിക്കാവുന്നതാണ്.

5. പിഴപലിശ, അന്യായ ചെലവുകൾ മററു ചിലവുകൾ എന്നിവ പൂർണ്ണമായും ഇളവ് ചെയ്യേണ്ടതാണ്. ഇതു സംബന്ധിച്ചുളള തീരുമാനം ബാങ്ക് ഭരണസമിതി/ സെററിൽമെൻറ് അഡവൈസറി കമ്മററി തീരുമാനമെടുക്കേണ്ടതാണ്.

6, ആർബിട്രേഷൻ/എക്സിക്യൂഷൻ ഇവ ഫയൽ ചെയ്തിട്ടുളളതും ഡിക്രി/ അവാർഡ് ആയി നടപടിയിലിരിക്കുന്നതുമായ വായ്പകളുടെ കാര്യത്തിൽ സഹകരണ വകുപ്പിലെ ബന്ധപ്പെട്ട അധികാരിയുടെ അനുവാദത്തോടെ വേണം വായ്പ കണക്ക് തീർപ്പാക്കേണ്ടതാണ്.

7. ഈ പദ്ധതി നടപ്പിലാക്കുന്നത് വഴി നൽകുന്ന ആനുകൂല്യം സർക്കാരോ റിസർവ്വ് ബാങ്കാ വഹിക്കുന്നതല്ല. ഈ പദ്ധതി നടപ്പാലാക്കുന്നകാര്യത്തിൽ മേൽപറഞ്ഞ മാർഗ നിർദ്ദേശങ്ങളിൽ നിന്നും വ്യതിചലിക്കിനുളള വിവേചനാധികാരം ബാങ്കുകൾക്ക് ഉണ്ടായിരിക്കുന്നതല്ല.

ഈ പദ്ധതിയുടെ കാലാവധി 31.3.2002 ൽ അവസാനിക്കുന്നതാണ്.

കെ. ചന്ദ്രസേനപ്രസാദ്
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

No. CB(2) 43977/2000 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 7.12.2001

CIRCULAR 43/2001

Sub : **Co-operative Department - Rates of interest on Deposits accepted by Co-operative Credit institutions not coming under the purview of Banking Regulation Act, 1949 (As applicable to Co-operative Societies) Special Rate of Interest for the Fixed Deposit of Senior Citizens instructions issued regarding**

Ref : **1. Circular No. 33/2001/Dated 27.9.01 of the Registrar of Co-operative Societies**
2. Circular No. RPCD No. RF.DIR.DC 77/07. 38.01/2000-2001 dated 19.4.2001 of Reserve Bank of India
3. Decision No. 1.dated. 24.10.2001 of the Central Banks Conference

In the circular 1st cited instructions were issued for fixing the Maximum Rate of Interest Payable on Deposits accepted by Co-operative Credit institutions not coming under the purview of the Banking Regulation Act 1949 (as applicable to Co-operative Societies).

As per the Instructions issued by the Reserve Bank of India vide reference 2nd cited, the Banks coming under the Banking Regulation Act. 1949 are permitted to accept Fixed Deposits from senior citizens offering higher rate of interest as compared to normal deposits of any size and period.

It has now been decided in the Central Banks conference held on 24.10.2001 to extend the facility of allowing higher rate of interest to the Fixed Deposits made by the senior citizens with the Kerala State Co-operative Bank and District Co-operative Banks.

The question of allowing the above benefit to the deoposits made in the other Co-operative institutions under the control of Registrar of Co-operative Societies has been examined indetail and that extending this benefit to the deposits of senior citizens is found very reasonable. As such instructions are hereby issued to all co operative institutions concerned to allow ½% higher rate of interest to the fixed Deposit of any size and period made by the senior citizens (above the age of 65 years) with effect from 1.10.2001.

K. Chandrasena Prasad
Registrar of Co-operative Societies in Charge

നമ്പർ സി.ജി.(2) 8975/92

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 15.3.2002

സർക്കുലർ നമ്പർ 3/2002

വിഷയം : **സഹകരണ സംഘങ്ങൾ നടത്തുന്ന ചിട്ടികൾക്ക് ചിറ്റാൾ അടച്ച തുകയുടെ 75% വരെ വായ്പ നൽകുന്നത് സംബന്ധിച്ച്**

സൂചന : **സർക്കാരിന്റെ 24.11.2001 ലെ 2146/ബി1/ 99 സഹ:നമ്പർ കത്ത്**

ചിട്ടി നടത്തുന്ന സഹകരണ സംഘങ്ങൾക്ക് ചിട്ടി നടത്തിപ്പിന് കൂടുതൽ ആകർഷവും പ്രയോജനകരവും ആക്കി തീർക്കുക എന്ന ഉദ്ദേശ ലക്ഷ്യത്തോടെ ചിട്ടി വായ്പാ പദ്ധതി ആവിഷ്ക്കരിച്ചു നടപ്പാക്കാൻ സൂചന പ്രകാരം സർക്കാർ അനുമതി നൽകി. ഈ വായ്പയുടെ മാർഗ്ഗനിർദ്ദേശങ്ങൾ ചുവടെ ചേർക്കുന്നു.

1. ചിട്ടി സലയുടെ പത്തു ശതമാനം അടച്ച ചിട്ടി പിടിക്കാത്ത ചിറ്റാളൻമാർക്ക് മാത്രമേ ചിട്ടി വായ്പയ്ക്ക് അർഹതയുള്ളു.

2. ഓരോ ചിട്ടിയ്ക്കും ചിറ്റാൾ അടച്ച തുകയുടെ 75 ശതമാനം വരെ പരമാവധി ചിട്ടി വായ്പ അനുവദിയ്ക്കാവുന്നതാണ്.

3. ചിട്ടി വായ്പയുടെ ഈട് സഹകരണ സംഘങ്ങൾ നൽകുന്ന നിക്ഷേപ ജാമ്യ വായ്പകൾ പോലെ ഓരോ ചിട്ടിയിലും അടച്ച മൊത്തം തുകയുടെ ജാമ്യത്തിൻ മേൽ നൽകേണ്ടതാണ്.

4. ചിട്ടി വായ്പകൾക്ക് ഒന്നിലധികം ചിട്ടികളുടെ ഈട് അനുവദിയ്ക്കാൻ പാടുള്ളതല്ല.

5. ചിട്ടി വായ്പയുടെ കാലാവധി വായ്പക്കാരൻ ചിട്ടി പിടിക്കുന്നതോ, ചിട്ടി വട്ടവറുതിയാകുന്നതോ വരെയായിരിക്കും.

6. ചിട്ടി തുക ചിറാളൻ കൈപ്പറുന്നതിനു മുൻപ് ചിട്ടി വായ്പയും പലിശയും മൊത്തമായി വക വച്ചതിനു ശേഷം ബാക്കി തുക ചിറാളന് നൽകിയാൽ മതിയാകും. ഇതിന് ചിറാളനിൽ നിന്നും സമ്മതപത്രം വാങ്ങേണ്ടതാണ്.

7. സഹകരണ സംഘങ്ങൾ സ്വന്തം ഫണ്ടിൽ നിന്നും നൽകുന്ന വായ്പകൾക്ക് നിശ്ചയിച്ചിട്ടുളള പലിശ നിരക്കിൽ അധികരിക്കാത്ത ചിട്ടി വായ്പയ്ക്ക് പലിശ ഈടാക്കാവുന്നതാണ്.

8. വായ്പയുടെ പലിശയും മുതലും മാസംതോറും അടയ്ക്കാവുന്നതും ചിട്ടി തുക പറുന്നതിനു മുമ്പായി വായ്പാ കണക്ക് അവസാനിപ്പിക്കേണ്ടതാണ്.

9. ചിട്ടി വായ്പകൾ നൽകുന്നതിന് സഹകരണ സംഘങ്ങൾ ഉപനിബന്ധനകൾ പാസ്സാക്കി ജില്ലാ സഹകരണ സംഘം ജനറൽ ജോയിൻറ് രജിസ്ട്രാറിൽ നിന്നും അംഗീകാരം വാങ്ങേണ്ടതാണ്.

ജെ. രവീന്ദ്രരാജു
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ

സി.ജി. 2/4551/02

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 26.03.2002

സർക്കുലർ നമ്പർ 7/2002

വിഷയം : **2001 ലെ കേരള കാർഷിക കടക്കാർ താൽക്കാലിക ആശ്വാസ) ആക്റ്റ് സഹകരണ സംഘങ്ങളിൽ നടപ്പാക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. 2001 ഡിസംബർ 29ാം തിയതിയിലെ 16977/ലെഗ് എ1/2001/നിയമം നമ്പർ സർക്കാർ വിജ്ഞാപനം.**
2. 2002 ഫെബ്രുവരി 28ാം തിയതിയിലെ ജി.ഒ.(പി) 30/2002 ആർ.ഡി -ാം നമ്പർ സർക്കാർ വിജ്ഞാപനം.

കേരള സംസ്ഥാനത്തിലെ കർഷകർ എടുത്തിട്ടുളള കാർഷിക കടബാദ്ധ്യത പല ഘടകങ്ങൾ മൂലം കഴിഞ്ഞ അഞ്ചു വർഷമായി വർദ്ധിക്കുകയും കടക്കാരായ കർഷകരിൽ പെരുകി വന്ന കടങ്ങൾ ഈടാക്കി എടുക്കുന്നതിനായി വ്യവഹാരങ്ങളും മറു നടപടിക്രമങ്ങളും, കോടതികൾ ട്രൈബ്യൂണലുകൾ ഉൾപ്പെടെയുളള അധികാരം സ്ഥാപനങ്ങളിൽ വർദ്ധിച്ചതിനാലും കടങ്ങളുടെ മൊത്തം അസ്സൽ തുക അൻപതിനായിരം രൂപയിൽ കവിയാത്ത കർഷകരുടെ കാർഷിക വായ്പയ്ക്ക് താൽക്കാലിക ആശ്വാസം വ്യവസ്ഥ ചെയ്തുകൊണ്ട് 2001 ലെ 19 ാം ആക്റ്റായി കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം) നിയമം 2001 ഡിസംബർ 29 ാം തിയതി മുതൽ നിലവിൽ വന്നു. ഈ നിയമത്തിൻെറ പരിധിയിൽ കർഷകർ സഹകരണ സംഘങ്ങളിൽ നിന്നും എടുത്തിട്ടുളള വായ്പകളും ഉൾപ്പെടുന്നു. ഇപ്രകാരം ഉൾപ്പെടുത്തിയിട്ടുളള സഹകരണ സംഘങ്ങൾ ആക്റ്റിലെ വകുപ്പ് 2(3) അനുസരിച്ച് നിർവ്വചിച്ചവയാണ്.

ഈ നിയമത്തിലെ വകുപ്പ് 2 (2) പ്രകാരം നിർവ്വചിച്ച് കർഷകരിൽ വകുപ്പ്. 2(1)ൽ പ്രകാരം പറയുന്ന കർഷക തൊഴിലാളിയും ഉൾപ്പെടുന്നു. ഇവർ 29.12.2001 നോ അതിനു മുൻപോ സഹകരണ സംഘങ്ങളിൽ നിന്ന് എടുത്തിട്ടുളള അൻപതിനായിരം രൂപ വരെയുളള കാർഷിക കടങ്ങൾക്കാണ് ആനുകല്യത്തിന് അർഹത. ഈ

വായ്പകൾക്ക് നിയമം പ്രാബല്യത്തിൽ വന്ന 29.12.2001 തിയതി മുതൽ ടി നിയമത്തിലെ 3ാം വകുപ്പ് പ്രകാരം ആറുമാസ കാലയളവിന് വ്യവഹാരങ്ങൾക്കും അപേക്ഷകൾക്കും ക്രിമിനൽ നടപടികൾക്കും മററും വിലക്കും 5 ാം വകുപ്പ് പ്രകാരം പുനർ നിശ്ചയിച്ച് പരമാവധി ആറുമാസത്തിനുളളിൽ ആദ്യ ഗഡു തുടങ്ങി മുപ്പതു ഗഡുക്കളായി കടം തിരിച്ചടയ്ക്കാനുളള സാവകാശവും 5 (1) ാം വകുപ്പ് പ്രകാരം ആറുമാസത്തേക്ക് സഹകരണ സംഘത്തിന് നൽകേണ്ട കടത്തിന് പലിശയിളവും ലഭിക്കും. ഈ പലിശയിളവ് നൽകുന്നതിലൂടെ സഹകരണ സംഘത്തിന് ഉണ്ടാകുന്ന നഷ്ടത്തിന് തുല്യമായ തുക നിയമത്തിലെ വകുപ്പ് 5 (3) പ്രകാരം സർക്കാർ തിരികെ നൽകുന്നതിന് വ്യവസ്ഥ ചെയ്തിരിക്കുന്നു. ഈ നിയമത്തിൻ കീഴിൽ വരുന്ന കർഷകർക്ക് ആനുകൂല്യങ്ങൾ നൽകേണ്ടത് ഇനി പറയും പ്രകാരമാണ്.

ഈ പദ്ധതി അനുസരിച്ച് ആനുകൂല്യം ലഭിക്കേണ്ട കർഷകൻ ടി. ആക്ററിലെ ചട്ടം 5 (1) അനുസരിച്ച് കടം എടുത്തിട്ടുളള സഹകരണ സംഘത്തിന് അപേക്ഷ നൽകണം. ടി അപേക്ഷയിൽ കർഷകനാണെന്നു തെളിയിക്കുന്ന രേഖകൾ, സഹകരണ സംഘത്തിന് നൽകേണ്ട കൃത്യമായ തുക ഗഡുക്കളായി വീട്ടുന്നതിന് ഉദ്ദേശിക്കുന്ന കാലാവധി എന്നിവ ചട്ടം 5 (2) പ്രകാരം ഉൾപ്പെടുത്തിയിരിക്കണം. അപേക്ഷകൻ കർഷകനാണെന്നും അടയ്ക്കേണ്ട കടം കാർഷിക കടമാണെന്ന കാര്യവും പരിശോധിക്കേണ്ടത് ചട്ടം 5 (3) പ്രകാരം സഹകരണ സംഘത്തിന്റെ ചുമതലയാണ്. യോഗ്യമായ അപേക്ഷകൾ നിയമത്തിന്റെ ആനുകൂല്യങ്ങൾ നൽകികൊണ്ട് സഹകരം സംഘം ചട്ടം 5 (4) പ്രകാരം തീരുമാനം എടുക്കാം. ഇങ്ങനെ എടുത്ത തീരുമാനങ്ങൾ ചട്ടം 5 (5) അനുസരിച്ച് പതിനഞ്ച് ദിവസത്തിനുളളിൽ അതാത് ജില്ലാ ജനറൽ വിഭാഗം സഹകരണസംഘം ജോയിൻറ് രജിസ്ട്രാർക്കും ജില്ലാ കളക്ടർക്കും എത്തിച്ചിരിക്കേണ്ടതാണ്.

ഈ നിയമത്തിന്റെ ആനുകൂല്യങ്ങൾ സഹകരസംഘം നിഷേധിച്ചു എന്നു ബോദ്ധ്യമുളള കർഷകർക്ക് ചട്ടം 6 (1) അനുസരിച്ച് ജില്ലാ കളക്ടർക്ക് മുപ്പത് ദിവാത്തിനകം അഞ്ച് രൂപ കോർട്ട് ഫീ സ്റ്റാമ്പ് പതിച്ച് അപേക്ഷയിൽ അപ്പീൽ നൽകാം.

കർഷകർക്ക് ആനുകൂല്യങ്ങൾ നൽകിയതുമൂലം ഉണ്ടാകുന്ന പലിശ നഷ്ടം സർക്കാരിൽ നിന്നും തിരികെ ലഭിക്കുന്നതിനായി ചട്ടം 7 (1) ൽ പറയുന്ന തരത്തിൽ സഹകരണ സംഘം സ്ഥിതി ചെയ്യുന്ന ജില്ലാ സഹകരണ സംഘം ജോയിൻറ് രജിസ്ട്രാർ ജനറൽക്ക് അപേക്ഷ നൽകണം. ടി. അപേക്ഷ സഹകരണസംഘം ജോയിൻറ് രജിസ്ട്രാർ (ജനറൽ) പരിശോധിച്ച് ശുപാർശ സഹിതം ജില്ലാ കളക്ടർക്ക് ചട്ടം 7 (3) പ്രകാരം സമർപ്പിക്കേണ്ടതാണ്. ഇങ്ങനെ നൽകുന്ന അപേക്ഷയിൽ പലിശയിളവ് നൽകി അപേക്ഷകന്റെ പേരും വിലാസവും ഓരോരുത്തർക്കും പലിശയിനത്തിൽ നൽകിയ തുകയും ഉണ്ടായിരിക്കണം. ഈ നിയമത്തിന്റെ പരിധിയിൽ വരുന്ന കർഷകൻ തന്റെ കടത്തിന് നൽകേണ്ടതായ പലിശ വകുപ്പ് 5 (1) ൽ പറയുന്ന തരത്തിലായിരിക്കണം.

ഈ നിയമത്തിന്റെ പരിധിയിൽ വരുന്ന കർഷകനെ തന്റെ കടബാദ്ധ്യതയിൽ നിന്ന് പരമാവധി താൽക്കാലിക ആശ്വാസം ലഭിക്കുന്നതിനും അർഹരായ ഗുണഭോക്താക്കളെ തിരഞ്ഞെടുക്കുന്നതിനും എല്ലാ ജനറൽ ജില്ലാ സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർമാരും പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്. ആനുകൂല്യത്തിന് അർഹതയുളള കർഷകൻ കടം എടുത്തിട്ടുളള സഹകരണ സംഘങ്ങളിൽ നിന്നും ലഭിക്കുന്ന അപേക്ഷയിൽ നിന്നും ഈ സർക്കുലറിൽ അനുബന്ധമായി

ചേർത്തിരിക്കുന്ന പ്രൊഫോർമ പ്രകാരം മുതൽ, പലിശ, വാർഷിക വരുമാനം എന്നീ വിശദാംശങ്ങൾ അടങ്ങിയ ഒരു പട്ടിക തയ്യാറാക്കി ഈ ആഫീസിലേയ്ക്ക് അയച്ചു തരേണ്ടതാണ്. സഹകരണ സംഘത്തിന് നഷ്ടപ്പെടുന്ന പലിശ തിരികെ ലഭിക്കുന്നതിന് എല്ലാ ജില്ലാ ജനറൽ സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർമാരും എല്ലാ നടപടികളും ത്വരിതഗതിയിൽ നിർവഹിക്കേണ്ടതാണെന്നും ഓർമ്മിപ്പിക്കുന്നു.

ജെയിംസ് വർഗീസ്. ഐ.എ.എസ്.
സഹകരണസംഘം രജിസ്ട്രാർ

നമ്പർ സി.ബി.(1) 27812/2001 സഹകരണ സംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 26.03.2002

സർക്കുലർ നമ്പർ 8/2002

വിഷയം : **സംസ്ഥാനത്തെ സഹകരണ വായ്പാമേഖലയിലെ കുടിശ്ശിക വായ്പാ കണക്കവസാനിപ്പിക്കുന്നതിന് വൺടൈം സെറ്റിൽമെന്റ് നടപ്പാക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 27.09.2001ലെ 35/2001 നമ്പർ സർക്കുലർ**
2. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 12.10.2001 ലെ ഇതേ നമ്പർ കത്തുപ്രകാരം പുറപ്പെടുവിച്ചിട്ടുള്ള മാർഗ്ഗനിർദേശങ്ങൾ

സഹകരണ സ്ഥാപനങ്ങളിലെ വർദ്ധിച്ചു വരുന്ന കുടിശ്ശിക നിവാരണ പരിപാടിയുടെ ഭാഗമായി സൂചന സർക്കുലർ പ്രകാരം വൺ ടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുന്നതിന് അനുമതി നൽകിയിട്ടുണ്ട്. പ്രസ്തുത പദ്ധതിപ്രകാരം പലിശ ഇളവ് ചെയ്യുന്നതിൽ പിഴപലിശ, കൂട്ടുപലിശ എന്നിവ ഒഴിവാക്കി ഡോക്കുമെന്റ് നിരക്കോ ഇന്നത്തെ നിരക്കോ ഏതാണ് കുറവ് ആ നിരക്കുകളിൽ പലിശ കണക്കാക്കി വായ്പാ കണക്ക് അവസാനിപ്പിക്കണമെന്ന് നിർദ്ദേശം നൽകിയിട്ടുള്ളത്. ഇത് അംഗങ്ങൾക്ക് കാര്യമായ ആനുകൂല്യം ലഭിക്കുന്നില്ല എന്ന് ബോദ്ധ്യപ്പെട്ടതിന്റെ അടിസ്ഥാനത്തിൽ 35/2001 ാം നമ്പർ സർക്കുലറിലെ അവസാനഭാഗം ചുവടെ ചേർക്കും പ്രകാരം ഭേദഗതി ചെയ്യുന്നു.

വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി പ്രകാരം വായ്പാ കണക്ക് അവസാനിപ്പിക്കുന്ന കേസുകളിൽ പിഴപലിശ, കൂട്ടുപലിശ എന്നിവയും പലിശയ്ക്കു പലിശയും ഒഴിവാക്കി, ഡോക്കുമെന്റ് നിരക്കോ ഇന്നത്തെ നിരക്കോ ഏതാണ് കുറവ് ആ നിരക്കിൽ പലിശ കണക്കാക്കി വായ്പാ കണക്ക് അവസാനിപ്പിക്കേണ്ടതാണ്.

മേൽ പ്രകാരമുള്ള ഭേദഗതി ബന്ധപ്പെട്ട എല്ലാവരേയും അറിയിക്കേണ്ടതാണ്.

സഹകരണ സംഘം രജിസ്ട്രാർക്കുവേണ്ടി

നമ്പർ സി.ബി. (1) 27812/2001 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 30.03.2002

സർക്കുലർ നമ്പർ 9/2002

വിഷയം : **സംസ്ഥാനത്തെ സഹകരണ വായ്പാമേഖലയിലെ കുടിശ്ശിക വായ്പാ കണക്കവസാനിപ്പിക്കുന്നതിന് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി**

നടപ്പിലാക്കുന്നതിന് കാലാവധി ദീർഘിപ്പിക്കുന്നത് സംബന്ധിച്ച്

സൂചന : **1. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 27.09.2001 ലെ 35/2001 നമ്പർ സർക്കുലർ**

2. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 12.10.2001 ലെ ഇതേ നമ്പർ കത്തു പ്രകാരം പുറപ്പെടുവിച്ചിട്ടുള്ള മാർഗ്ഗ നിർദേശങ്ങൾ

3. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 29.11.2001 ലെ ഇതേ നമ്പർ സർക്കുലർ

4. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 13.11.2001 ലെ ഇതേ നമ്പർ കത്ത്

5. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 26.03.2002 ലെ 8/2002 നമ്പർ സർക്കുലർ

സംസ്ഥാനത്തെ സഹകരണ സ്ഥാപനങ്ങളിലെ വർദ്ധിച്ചു വരുന്ന കുടിശ്ശിക നിവാരണ പരിപാടിയുടെ ഭാഗമായി സൂചന 1, 3, സർക്കുലറുകൾ പ്രകാരം 31.03.2002 വരെ കാലാവധി നിശ്ചയിച്ചുകൊണ്ട് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുന്നതിന് അനുമതി നൽകിയിട്ടുണ്ട്. വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതിയുടെ മാർഗ്ഗ നിർദ്ദേശങ്ങൾ സൂചന (2) കത്ത് പ്രകാരം പുറപ്പെടുവിച്ചിട്ടുണ്ട്. ഇപ്രകാരം നൽകിയ മാർഗ്ഗ നിർദ്ദേശങ്ങളിലെ ഏഴാം ഖണ്ഡികയുടെ ഭേദഗതി സൂചന (4) പ്രകാരവും 35/2001 ാം നമ്പർ സർക്കുലറിന്റെ അവസാന ഭാഗം സൂചന (5) പ്രകാരവും ഭേദഗതി വരുത്തിയിട്ടുമുണ്ടായിരുന്നു.

30.03.2002 ൽ ബഹുമാനപ്പെട്ട സഹകരണ വകുപ്പ് മന്ത്രിയുടെ ചേംബറിൽ വച്ചു കൂടിയ 2002 ലെ നിക്ഷേപ സമാഹരണ യജ്ഞത്തിന്റെ സംസ്ഥാനതല സ്റ്റിയറിംഗ് കമ്മറ്റി യോഗത്തിൽ വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതിയുടെ കാലാവധി 30.04.2002 വരെ ദീർഘിപ്പിക്കുവാൻ വായ്പാ സഹകരണ സ്ഥാപനങ്ങൾക്ക് അനുവാദം നൽകുന്നത് അഭികാമ്യമായിരിക്കുമെന്ന് തീരുമാനിക്കുകയുണ്ടായി.

മേൽ സാഹചര്യത്തിൽ സംസ്ഥാന സഹകരണ ബാങ്ക്, ജില്ലാ സഹകരണ ബാങ്കുകൾ, സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്ക്, സംസ്ഥാന സഹകരണ ഹൗസിംഗ് ഫെഡറേഷൻ, പ്രാഥമിക ഹൗസിംഗ് സഹകരണ സംഘങ്ങൾ, പ്രൈമറി ക്രെഡിറ്റ് സംഘങ്ങൾ, സഹകരണ അർബൻ ബാങ്കുകൾ എന്നിവയ്ക്ക് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുവാനുള്ള സമയപരിധി 31.03.2002 ൽ നിന്നും 30.04.2002 വരെ ദീർഘിപ്പിച്ച് അനുവാദം നൽകുന്നു. ടി സമയുരിധിക്കുളളിൽ കുടിശ്ശിക തുക അടച്ചു തീർത്തു വായ്പാകണക്ക് അവസാനിപ്പിക്കുന്നവർക്കും സൂചനകളിലെ നിർദ്ദേശങ്ങൾ കർശനമായി പാലിച്ചുകൊണ്ട് ആനുകൂല്യം അനുവധിച്ചു നൽകാവുന്നതാണ്.

ജെയിംസ് വർഗീസ്
സഹകരണ സംഘം രജിസ്ട്രാർ

നമ്പർ സി.ജി.(1) 5861/2002

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 2.4.2002

സർക്കുലർ നമ്പർ 11/2002

വിഷയം : **പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളിൽ നിന്നും അംഗങ്ങൾക്ക് നൽകുന്ന വിവിധ ഇനം വായ്പകൾക്കു ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും അതേ ആവശ്യത്തിന് പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾക്ക്**

നൽകുന്ന വായ്പകൾക്കുമുള്ള ഓഹരി അനുപാതം ഏകീകരിക്കുന്നത് സംബന്ധിച്ച്

സൂചന : **സഹകരണ സംഘം രജിസ്ട്രാറുടെ 3.1.2000 ലെ 3/2000 നമ്പർ സർക്കുലർ**

പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സ്ഥാപനങ്ങൾ, ഫാർമേഴ്സ് സർവ്വീസ് സഹകരണ ബാങ്കുകൾ, ബാങ്കിംഗ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരാത്ത കാർഷികേതര വായ്പാ സഹകരണ സംഘങ്ങൾ എന്നിവയിൽ നിന്നും അംഗങ്ങൾക്ക് നൽകാവുന്ന വിവിധ ഇനം വായ്പകളുടെ പരിധിയും ഓഹരി അനുപാതവും സൂചന സർക്കുലർ പ്രകാരം പുതുക്കിനിശ്ചയിച്ചിട്ടുണ്ട്. അതനുസരിച്ച് ഹ്രസ്വകാല മദ്ധ്യകാല കാർഷിക വായ്പയ്ക്ക് 1:20 എന്ന അനുപാതത്തിലും സ്വർണ്ണപണയ വായ്പ ഒഴികെയുള്ള മറെറല്ലാ വായ്പകൾക്കും വായ്പത്തുകയുടെ ഒരു ശതമാനമാണ് ഓഹരി അനുപാതമായി നിശ്ചയിച്ചിട്ടുള്ളത്.

സ്വന്തം ഫണ്ട് മതിയാകാതെ വരുന്ന സന്ദർഭങ്ങളിൽ പ്രാഥമിക സംഘങ്ങൾ ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും കടം വാങ്ങി അംഗങ്ങളുടെ വായ്പാവശ്യങ്ങൾ നിറവേററി വരുന്നുണ്ട്. ഈ കടത്തിന് ജില്ലാ സഹകരണ ബാങ്കുകൾ പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളിൽ നിന്നും കൂടിയ അനുപാതത്തിൽ ഓഹരി ഈടാക്കി വരുന്നതായി ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ട്. ജില്ലാ സഹകരണ ബാങ്കുകളിൽനിന്നും നേരിട്ടു നൽകുന്ന വ്യക്തിഗത വായ്പകൾക്ക് ഓഹരി തുക ഒടുക്കേണ്ടി വരുന്നുമില്ല. പ്രാഥമിക സഹകരണ സംഘത്തിൽ നിന്നും കൂടിയ അനുപാതത്തിൽ ജില്ലാ സഹകരണ ബാങ്കുകൾ ഓഹരി ഈടാക്കുന്നത് പ്രാഥമിക സഹകരണ സംഘങ്ങളേയും അതിലെ വായ്പയെടുക്കുന്ന അംഗങ്ങളേയും ദോഷകരമായി ബാധിക്കുന്നതിനാൽ പ്രാഥമിക സഹകരണ സംഘങ്ങളിൽ നിന്നും അംഗങ്ങൾക്കു വിവിധ ആവശ്യങ്ങൾക്ക് വായ്പ നൽകുന്നതിന് സൂചന സർക്കുലർ പ്രകാരം നിശ്ചയിച്ചിട്ടുള്ള ഓഹരി അനുപാതം ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും പ്രസ്തുത ആവശ്യങ്ങൾക്കായി പ്രാഥമിക സംഘങ്ങളെടുക്കുന്ന വായ്പകൾക്കും ബാധകമായിരിക്കുന്നു. വിവിധയിനം വായ്പകളുടെ ഓഹരി അനുപാതം ചുവടെ ചേർക്കുന്നു.

വായ്പാപദ്ധതി	**കാലാവധി**	**ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളെടുക്കുന്ന വായ്പക്ക് ഉള്ളതും പ്രാഥിക വായ്പാ സഹകരണ സംഘങ്ങളിൽ നിന്നും അംഗങ്ങൾക്ക് നൽകുന്ന വായ്പകൾക്കും ഉള്ള ഓഹരി അനുപാതം**
1. ഉൽപാദന ആവശ്യങ്ങൾക്കുള്ള വായ്പ		
എ. ഹ്രസ്വകാല മദ്ധ്യകാല കാർഷിക വായ്പകൾ		
	ഹ്രസ്വകാലം 1 വർഷം മദ്ധ്യകാലം 5 വർഷം വരെ	വായ്പതുകയുടെ 1%
ബി. സ്വയം തൊഴിൽ വായ്പകൾ	5 വർഷം	വായ്പതുകയുടെ 1%
സി. വ്യവസായ വായ്പകൾ	5 വർഷം	വായ്പതുകയുടെ 1%
ഡി. ഭൂസമ്പത്തു വാങ്ങുന്നതിപുള്ള വായ്പ	5 വർഷം	വായ്പതുകയുടെ 1%

2. സ്വർണ്ണപ്പണയ വായ്പ	ഇല്ല	
3. ഉപഭോക്തൃ വായ്പകൾ		
1. കുട്ടികളുടെ വിദ്യഭ്യാസത്തിന്	1 വർഷം	വായ്പത്തുകയുടെ 1%
2. കുട്ടികളുടെ പ്രോഫഷണൽ വിദ്യഭ്യാസത്താന്	5 വർഷം	വായ്പത്തുകയുടെ 1%
3. കുടുംബാംഗളുടെ വിവാഹാവശ്യത്തിന്	5 വർഷം	വായ്പത്തുകയുടെ 1%
4. കിടുംബാംഗങ്ങളുടെ ചികിൽസാ മരണാനന്തര ചെലവുകൾ തുടങ്ങിയവ	1 വർഷം	വായ്പത്തുകയുടെ 1%
5. താമസിക്കുന്ന വീട് നന്നാക്കുന്നതിന്	5 വർഷം	വായ്പത്തുകയുടെ 1%
6. വിദേശങ്ങളിൽ ജോലി നോക്കി പോകുന്നതിന്	3 വർഷം	വായ്പത്തുകയുടെ 1%
7. വീട്ടുപകരണങ്ങൾ വാങ്ങുന്നതിന്	5 വർഷം	വായ്പത്തുകയുടെ 1%
8. വാഹനങ്ങൾ വാങ്ങുന്നതിന്	5 വർഷം	വായ്പത്തുകയുടെ 1%
9. വിവിധ ആവശ്യങ്ങൾക്കുള്ള ക്യാഷ് ക്രെഡിറ്റ്	1 വർഷം	വായ്പത്തുകയുടെ 1%
10. ഭവന നിർമ്മാണ വായ്പ	5 വർഷം	വായ്പത്തുകയുടെ 1%

ജെയിംസ് വർഗ്ഗീസ് ഐ.എ.എസ്.
സഹകരണ സംഘം രജിസ്ട്രാർ

നമ്പർ സി.ജി. (2) 4551/02

സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 30.4.2002

സർക്കുലർ നമ്പർ 16/2002

വിഷയം : **2001 ലെ കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസ) ആക്ട് സഹകരണ സംഘങ്ങളിൽ നടപ്പാക്കുന്നത് കൂടുതൽ വിശദീകരണം നൽകുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 26.3.2002 ലെ 7/2002 ാം നമ്പർ സർക്കുലർ**
2. വയനാട് ജില്ലാ സഹകരണ ബാങ്കിന്റെ 10.4.2002 ലെ ഡബ്ല്യു.ഡി./ പി.ഡി.എസ്/145/2002 03 നമ്പർ കത്ത്

2001 ലെ കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസ) ആക്ട് സഹകരണ സംഘങ്ങളിൽ നിന്നും കർഷകർ എടുത്തിട്ടുള്ള കാർഷിക വായ്പയ്ക്ക് ബാധകമാകുന്നത് സംബന്ധിച്ചുള്ള മാർഗ്ഗ നിർദ്ദേശങ്ങൾ സൂചന പ്രകാരം പുറപ്പെടുവിച്ചിരിക്കുന്നു. കർഷകർ 29.12.2001 നോ അതിനുമുമ്പോ സഹകരണസംഘങ്ങളിൽ നിന്ന് എടുത്തിട്ടുള്ള അൻപതിനായിരം രൂപ വരെയുള്ള കാർഷികകടങ്ങൾക്ക് ആനുകൂല്യത്തിന് അർഹത എന്ന് ടി സർക്കുലറിൽ പറഞ്ഞിരുന്നു. എന്നാൽ 2001 ലെ കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസ) ആക്ടിൽ കടം എന്ന വാക്കിന് ആക്ട് പ്രാബല്യത്തിൽ വന്ന 2001 ഡിസംബറിൽ 29 ാം തിയതി കുടിശ്ശിക ആയ കടം എന്ന് നിർവ്വചനത്തിൽ പറഞ്ഞിട്ടില്ലെങ്കിൽ തന്നെയും ആക്ടിലെ 5 ാം വകുപ്പിന്റെ (1) ാം ഉപവകുപ്പിൽ കടത്തിൻമേൽ കൊടുക്കേണ്ടതായ പലിശയെപ്പറ്റി പരാമർശിക്കുന്ന ഭാഗത്ത് ആനുകൂല്യങ്ങൾക്ക് അർഹനായിട്ടുള്ള ഒരു കർഷകനിൽനിന്നും ആക്ട് പ്രാബല്യത്തിൽ വരുന്ന സമയത്ത് സഹകരണസംഘത്തിനോ, സർക്കാരിനോ കുടിശ്ശികയായിട്ടുള്ള കടത്തിനുമാത്രമേ

3 ാം വകുപ്പിൽ (1)ാം ഉപവകുപ്പ് പ്രകാരമുളള കാലയളവിലേക്ക് (സഹകരണ സംഘങ്ങളിൽ നിന്നുളള വായ്പയ്ക്ക് ആറുമാസത്തേയ്ക്ക) യാതൊരു പലിശയും ഉണ്ടാകുന്നതല്ല എന്ന് വ്യക്തമായിട്ടുണ്ട്. ആയതിനാൽ സഹകരണ സംഘങ്ങളിൽ നിന്നും എടുത്തിന്നുളള അൻപതിനായിരം രൂപ വരെയുളള കാർഷിക കടങ്ങളിൽ ആക്ട് പ്രാബല്യത്തിൽ വന്ന 29.12.2001 ൽ കുടിശ്ശികയായിട്ടുളള കടത്തിനു മാത്രമേ ഈ പദ്ധതി പ്രകാരം ആനുകൂല്യത്തിനർഹതയുണ്ടായിരിക്കുകയുളളു. കർഷകരെടുത്തിട്ടുളള 50,000/രൂപ വമരയുളള കാർഷിക വായ്പയിലെ കുടിശിക ഗഡുക്കളായി തിരിച്ചടക്കുന്നതിന് കടാശ്വാസ പദ്ധതി പ്രകാരം കൂടുതൽ സമയം അനുവദിച്ചതിനാൽ പ്രാഥമിക സഹകരണ സംഘങ്ങൾ ജില്ലാ സഹകരണ ബാങ്കുകളിൽ നിന്നും എടുത്തിട്ടുളള കാർഷിക വായ്പയുടെ തിരിച്ചടവിലും കുറവ് വന്നിട്ടുളളതായി സൂചന പ്രകാരം വയനാട് ജില്ലാ സഹകരണ ബാങ്ക് (ശദ്ധയിൽപ്പെടുത്തിയിരിക്കുന്നു. ജില്ലാ സഹകരണ ബാങ്കുകളിലെ കുടിശ്ശിക വർദ്ധിക്കുന്നതിനും സിഷ്(കിയ ആസ്തികളിൽ (എൻ.പി.എ) ഉൾപ്പെടുത്തി കരുതൽ വെയ്ക്കേണ്ടി വരുന്നതു കാരണം വാർഷിക കണക്കെടുപ്പിൽ ലാഭനഷ്ടക്കണക്ക് പ്രകാരം ജില്ലാ സഹകരണ ബാങ്കുകൾ നഷ്ടത്തിലാക്കാൻ സാദ്ധ്യതയുളളതായും ചൂണ്ടിക്കാണിച്ചിട്ടുണ്ട്.

ഈ സാഹചര്യം ഒഴിവാക്കുന്നതിന് പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും എടുത്തിട്ടുളള വായ്പകളിൽ കാർഷിക കടാശ്വാസ പദ്ധതി പ്രകാരം ആനുകൂല്യം അനുവധിച്ചതു കാരണം യഥാസമയം തിരിച്ചടവ് നടത്താൻ പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾക്ക് കഴിയാതിരുന്നത്രയും വായ്പത്തുകയും പലിശയും ജില്ലാ സഹകരണ ബാങ്കുകളുടെ വാർഷിക കണക്കിൽ കുടിശ്ശികയായി പരിഗണിക്കേണ്ടതില്ല എന്ന് വ്യക്തമാക്കുന്നു.

ജെയിംസ് വർഗ്ഗീസ്. ഐ.എ.എസ്.
സഹകരണസംഘം രജിസ്ട്രാർ

നമ്പർ സി.ബി.1/27812/01

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തിയതി 30.04.2002

സർക്കുലർ നമ്പർ 17/2002

വിഷയം : **സംസ്ഥാനത്തെ സഹകരണ വായ്പാമേഖലയിലെ കുടിശ്ശിക വായ്പാ കണക്കവസാനിപ്പിക്കുന്നതിന് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുന്നത് കാലാവധി ദീർഘിപ്പിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 27.9.01 ലെ 35/2001 നമ്പർ സർക്കുലർ**
2. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 12.10.01 ലെ ഇതേ നമ്പർ കത്ത് പ്രകാരം പുറപ്പെടുവിച്ചിട്ടുളള മാർഗ്ഗനിർദ്ദേശങ്ങൾ
3. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 29.11.01 ലെ 41/2001 നമ്പർ സർക്കുലർ
4. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 13.11.01 ലെ ഇതേ നമ്പർ കത്ത്
5. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 26.3.02 ലെ 8/2002 നമ്പർ സർക്കുലർ
6. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 30.3.02 ലെ 9/2002 നമ്പർ സർക്കുലർ

സംസ്ഥാനത്തെ സഹകരണ സ്ഥാപനങ്ങളിലെ വർദ്ധിച്ചുവരുന്ന കുടിശ്ശിക

പരിപാടിയുടെ ഭാഗമായി സൂചന (1), (3) സർക്കുലറുകൾ പ്രകാരം 31.03.2002 ന് കാലാവധി നിശ്ചയിച്ചു കൊണ്ട് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുന്നതിന് അനുമതി നൽകുകയും, സൂചന (6) സർക്കുലർ പ്രകാരം ടി പദ്ധതി നടപ്പിലാക്കുവാനുള്ള സമയപരിധി 31.03.2002 ൽ നിന്നും 30.4.2002 വരെ ദീർഘിപ്പിച്ച് അനുവാദം നൽകുകയും ചെയ്തിട്ടുണ്ട്.

ഫെബ്രുവരി മാർച്ച്, മാസങ്ങളിൽ സർക്കാർ ജീവനക്കാർ നടത്തിയിരുന്ന സമരം മൂലം പൊതുവിൽ ഉണ്ടായിട്ടുള്ള സാമ്പത്തിക മാന്ദ്യം കണക്കിലെടുത്ത് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതിയുടെ കാലാവധി 31.5.2002 വരെ ദീർഘിപ്പിക്കുവാൻ വായ്പാ സഹകരണ സ്ഥാപനങ്ങൾക്ക് അനുവാദം നൽകുന്നത് അഭികാമ്യമായിരിക്കുമെന്ന് സർക്കാരിന് ബോദ്ധ്യപ്പെട്ടിട്ടുണ്ട്.

മേൽ സാഹിര്യത്തിൽ സംസ്ഥാന സഹകരണ ബാങ്ക്, സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്ക്, സംസ്ഥാന സഹകരണ ഹൗസിംഗ് ഫെഡറേഷൻ, പ്രാഥമിക ഹൗസിംഗ് സഹകരണ സംഘങ്ങൾ, പ്രൈമറി ക്രെഡിറ്റ് സഹകരം സംഘങ്ങൾ, സഹകരണ അർബൻ ബാങ്കുകൾ എന്നിവയ്ക്ക് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുവാനുള്ള സമയപരിധി 30.4.2002 ൽ നിന്നും 31.5.2002 വരെ ദീർഘിപ്പിച്ച് അനുവാദം നൽകുന്നു. ടി സമയപരിധിക്കുളളിൽ കുടിശ്ശിക തുക അടച്ചു തീർത്ത് വായ്പകണക്ക് അവസാനിപ്പിക്കുന്നവർക്ക് സൂചനകളിലെ നിർദ്ദേശങ്ങൾ കർശനമായി പാലിച്ചുകൊണ്ട് ആനുകൂല്യം അനുവദിച്ചു നൽകാവുന്നതാണ്.

ജെയിംസ് വർഗീസ് ഐ.എ.എസ്.
സഹകരണ സംഘം രജിസ്ട്രാർ

നമ്പർ. സി.ബി. (1) 27812/2001 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 31.5.2002

സർക്കുലർ നമ്പർ 20 എ/2002

വിഷയം : സംസ്ഥാനത്തെ സഹകരണ വായ്പാ മേഖലയിലെ കുടിശ്ശിക വായ്പാ കണക്കവസാനിപ്പിക്കുന്നതിന് വൺ ടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുന്നത് കാലാവധി ദീർഘിപ്പിക്കുന്നത് സംബന്ധിച്ച്

സംസ്ഥാനത്തെ സഹകരണ സ്ഥാപനങ്ങളിലെ കുടിശ്ശിക നിവാരണ പരിപാടിയുടെ ഭാഗമായി സൂചന (1), (3) സർക്കുലറുകൾ പ്രകാരം 31.3.2002 ന് കാലാവധി നിശ്ചയിച്ചുകൊണ്ട് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുന്നതിന് അനുമതി നൽകുകയും സൂചന (6) സർക്കുലർ പ്രകാരം ടി പദ്ധതി നടപ്പിലാക്കുവാനുള്ള സമയപരിധി 31.3.2002 ൽ നിന്നും 30.4.2002 വരെയും സൂചന (7) സർക്കുലർ പ്രകാരം 30.4.2002 ൽ നിന്നും 31.5.2002 വരെയും ദീർഘിപ്പിച്ചു അനുവാദം നൽകുകയും ചെയ്തിട്ടുണ്ട്.

ഈ പദ്ധതി വായ്പക്കാർക്ക് കൂടുതൽ ആശ്വാസമുണ്ടാകുമെന്നതിനാലും കാർഷിക കടാശ്വാസം 30.6.2002 വരെ പ്രാബല്യത്തിൽ ഉളളതിനാലും വൺ ടൈം സെറ്റിൽമെന്റ് പദ്ധതിയുടെ കാലാവധി 30.6.2002 വരെ ദീർഘിപ്പിക്കുവാൻ വായ്പാ സഹകരണ സ്ഥാപനങ്ങൾക്ക് അനുവാദം നൽകുന്നത് അഭികാമ്യമായിരിക്കുമെന്ന് സർക്കാരിന് ബോദ്ധ്യപ്പെട്ടിട്ടുണ്ട്.

മേൽ സാഹചര്യത്തിൽ സംസ്ഥാന സഹകരണ ബാങ്ക്, സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്ക് സംസ്ഥാന സഹകരണ ഹൗസിംഗ് ഫെഡറേഷൻ, ജില്ലാ സഹകരണ ബാങ്കുകൾ, പ്രാഥമിക ഹൗസിംഗ് സഹകരണ സംഘങ്ങൾ പ്രാഥമിക വായ്പാ സഹകരണസംഘങ്ങൾ, സഹകരണ അർബൻ ബാങ്കുകൾ എന്നിവയ്ക്ക് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുവാനുള്ള സമയപരിധി 31.5.2002 ൽ നിന്നും 30.6.2002 വരെ ദീർഘിപ്പിച്ച് അനുവാദം നൽകുന്നു. ടി സമയപരിധിക്കുളളിൽ കുടിശ്ശിക തുക അടച്ചു തീർത്ത് വായ്പാകണക്ക് അവസാനിപ്പിക്കുന്നവർക്ക് സൂചനകളിലെ നിർദ്ദേശങ്ങൾ കർശനമായി പാലിച്ചുകൊണ്ട് ആനുകൂല്യം അനുവദിച്ചു നൽകാവുന്നതാണ്.

ജെയിംസ് വർഗ്ഗീസ്. ഐ.എ.എസ്.
സഹകരണസം:ഘം രജിസ്ട്രാർ

നമ്പർ സി.ബി. (1) 27812/01

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 5. 2002

സർക്കുലർ നമ്പർ. 21/2002

വിഷയം : കുടിശ്ശിക നിവാരണത്തിന് വൺ ടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പാക്കുന്നത് സംബന്ധിച്ച്

കുടിശ്ശിക നിവാരണ പരിപാടിയുടെ ഭാഗമായി സൂചന സർക്കുലറുകൾ പ്രകാരം സഹകരണ സ്ഥാപനങ്ങളിൽ നടപ്പാക്കിയിട്ടുളള വൺ ടൈം സെറ്റിൽമെന്റ് പദ്ധതിയുടെ മാർഗ്ഗ നിർദേശങ്ങൾ 12.10.2001 ലെ സി.ബി. (1) 27812/01 ാം നമ്പർ കത്ത് പ്രകാരം പുറപ്പെടുവിച്ചിട്ടുണ്ട്. ഇപ്രകാരം നൽകിയ മാർഗ്ഗ നിർദേശങ്ങളിലെ 2ാം ഖണ്ഡികയിൽ അന്യായവിധി നടത്തു കണക്കുകളിൽ അന്യായ തിയതി മുതൽ (അന്യായ കണക്കിലേയ്ക്ക് മാറ്റിയ തിയതി) ഡോക്യുമെന്റ് നിരക്കിലുളള പലിശയോ, സംഘം ഇപ്പോൾ സമാന വായ്പകൾക്ക് ഈടാക്കുന്ന നിരക്കിലുളള പലിശയോ ഏതാണ് കുറവ്, ആ നിരക്കിൽ പലിശയും മറ്റ് ചിലവുകളും ഈടാക്കി ടി കണക്കുകൾ അവസാനിപ്പിക്കാൻ അനുവദിക്കാവുന്നതാണ് എന്ന് വ്യക്തമായിരിക്കുന്നു. ഇത് അംഗങ്ങൾക്ക് കാര്യമായ ആനുകൂല്യം ലഭിക്കുന്നതില്ല എന്ന് ബോദ്ധ്യപ്പെട്ടതിന്റെ അടിസ്ഥാനത്തിൽ മാർഗ്ഗ നിർദേശങ്ങളിലെ 2ാം ഖണ്ഡിക ചുവടെ ചേർക്കും പ്രകാരം ഭേദഗതി ചെയ്തിരിക്കുന്നു.

ഖണ്ഡിക 2 അന്യായവിധി നടത്തി കണക്കുകളിൽ അന്യായം ഫയൽ ചെയ്ത തിയതിയിലുളള ബാക്കി നിൽപ്പ് മുതലിന് പിഴപലിശ ഒഴിവാക്കി ഡോക്കുമെന്റ് നിരക്കിലുളള പലിശയോ, സംഘം ഇപ്പോൾ സമാന വായ്പകൾക്ക് ഈടാക്കുന്ന നിരക്കിലുളള പലിശയോ ഏതാണ് കുറവ് ആ നിരക്കിൽ പലിശയും ആർബിട്രേഷൻ ഫീസായി അടച്ച തുകയും മാത്രം ഈടാക്കി ടി കണക്കുകൾ അവസാനിപ്പിക്കാൻ അനുവദിക്കാവുന്നതാണ്.

ഈ പദ്ധതി ആവശ്യമായ പ്രചാരണം നടത്തുന്നതിനും തദ്വാര വായ്പകൾ 31.5.2002 നകം അടച്ചു തീർക്കുന്നതിനും എല്ലാ (ജനറൽ) സഹകരണസം:ഘം ജോയിന്റ് രജിസ്ട്രാർമാരും പരിശ്രമിക്കേണ്ടതാണ്.

സഹകരണ സംഘം രജിസ്ട്രാർ

നമ്പർ സി.എൽ.റ്റി.3/5914/2001 സഹകരണ രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി

സർക്കുലർ നമ്പർ 23/2002

വിഷയം : **കേരളത്തിലെ പ്രാഥമിക സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്ക് ജീവനക്കാരുടെ ഭവനനിർമ്മാണ വായ്പ പരിധി വർദ്ധിപ്പിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സർക്കാരിന്റെ 8.8.2001 ലെ 1246/സി.3/2000 സഹ. നമ്പർ കത്ത്**
2. ആൾ കേരളാ കാർഷിക വികസന ബാങ്ക് എംപ്ലോയീസ് അസോസിയേഷന്റെ നിവേദനം

കേരളത്തിലെ പ്രാഥമിക സഹകരണ കാർഷിക വികസന ബാങ്ക് ജീവനക്കാരുടെ ഭവനനിർമ്മാണ വായ്പ ഒരു ലക്ഷം രൂപയിൽ നിന്നും മൂന്നു ലക്ഷമായി ഉയർത്തണമെന്ന് സൂചന രണ്ട് പ്രകാരം ആവശ്യപ്പെട്ടിരുന്നു. പ്രാഥമിക സഹകരണ സംഘങ്ങളിലെ ജീവനക്കാരുടെ ഭവനനിർമ്മാണ വായ്പയുടെ പരിധി അടിസ്ഥാനശമ്പളത്തിന്റെ 50 ഇരട്ടിയോ, രണ്ടര ലക്ഷം (2.50) രൂപയോ ആയി നിശ്ചയിച്ച് അനുമതി നൽകാവുന്നതാണെന്നും, ഒരു സംഘത്തിന് നൽകാവുന്ന പരമായധി തുക സംഘത്തിന്റെ സ്വന്തം ഫണ്ടിന്റെ 15% ആയി തുടരേണ്ടതാണെന്നും സൂചന ഒന്നു പ്രകാരം സർക്കാർ അനുവാദം നൽകിയിട്ടുണ്ട്.

ആയതിന്റെ അടിസ്ഥാനത്തിൽ പ്രാഥമിക കാർഷിക ഗ്രാമവികസന ബാങ്ക് ജീവനക്കാരുടെ ഭവനനിർമ്മാണ വായ്പയുടെ പരിധി അടിസ്ഥാന ശമ്പളത്തിന്റെ 50 ഇരട്ടിയോ, രണ്ടര ലക്ഷം (2.50) രൂപയോ ഏതാണ് കുറവ് അതു പ്രകാരം നിശ്ചയിച്ച് അനുവാദം നൽകുന്നു. ഒരു സംഘത്തിന് നൽകാവുന്ന പരമാവധി തുക സംഘത്തിന്റെ സ്വന്തം ഫണ്ടിന്റെ 15% ആയി തന്നെ തുടരേണ്ടതാണ്.

ജെ. രവീന്ദ്ര രാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്

നമ്പർ സി.ബി. (1) 2768/01 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തിയതി 16.8.2002

സർക്കുലർ നമ്പർ 30/2002

വിഷയം : **സംസ്ഥാനത്തെ സഹകരണ മേഖലയിലെ കുടിശിക വായ്പാ കണക്കവസാനിപ്പിക്കുന്നതിനു വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുന്നതു സംബന്ധിച്ച്.**

സൂചന : **1. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 27.9.01 ലെ 35/2001 നമ്പർ സർക്കുലർ**
2. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 12.10.01 ലെ ഇതേ നമ്പർ കത്ത് പ്രകാരം പുറപ്പെടുവിച്ചിട്ടുള്ള നിർദ്ദേശങ്ങൾ
3. സഹകരണ സം:ഘം രജിസ്ട്രാറുടെ 29.11.01 ലെ 41/2001 നമ്പർ സർക്കുലർ
4. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 13.11.01 ലെ ഇതേ നമ്പർ കത്ത്
5. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 26.3.02 ലെ 2/2002 നമ്പർ സർക്കുലർ

6. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 30.3.02 ലെ 9/2002 നമ്പർ സർക്കുലർ
7. സഹകരണ സം:ഘം രജിസ്ട്രാറുടെ 13.5.02 ലെ 17/2002 നമ്പർ സർക്കുലർ
8. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 13.5.02 ലെ ഇതേ നമ്പർ കത്ത്
9. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 13.5.02 ലെ 20/2002 നമ്പർ സർക്കുലർ
10. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 13.5.02 ലെ എ/2002 നമ്പർ സർക്കുലർ

സംസ്ഥാനത്തെ സഹകരണ സ്ഥാപനങ്ങളിലെ വർദ്ധിച്ചു വരുന്ന കുടിശിക വായ്പാ കണക്കവസാനിപ്പിക്കുന്നതിന്റെ ഭാഗമായി 30.6.2002 ന് കാലാവധി നിശ്ചയിച്ചുകൊണ്ട് സൂചന സർക്കുലറുകൾ/മാർഗ്ഗനിർദേശങ്ങളുടെ അടിസ്ഥാനത്തിൽ വൺ ടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കിയിരിക്കുന്നു.

പ്രസ്തുത കാലാവധിക്കുള്ളിൽ സംസ്ഥാനത്തെ സഹകരണ സ്ഥാപനങ്ങളിലെ കുടിശ്ശിക ഗണ്യമായി കുറയ്ക്കുവാൻ കഴിഞ്ഞിട്ടുണ്ടെങ്കിലും ഈ പദ്ധതിയുടെ പ്രയോജനം കുറെകൂടി കാര്യക്ഷമമാക്കണമെന്ന് ബോദ്ധ്യപ്പെട്ടിട്ടുണ്ട്. വീണ്ടും മൂന്നുമാസത്തേയ്ക്ക് പുനസ്ഥാപിക്കുന്നതു മുഖേന വിവിധ സഹകരണ വായ്പാ സംഘങ്ങൾക്ക് കുടിശ്ശിക കുറയ്ക്കുന്നതിന് ഉപകരിക്കുന്നതാണ്.

മേൽ സാഹചര്യത്തിൽ സംസ്ഥാന സഹകരണബാങ്ക്, സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്ക്, സംസ്ഥാന സഹകരണ ഹൗസിംഗ് ഫെഡറേഷൻ, ജില്ലാ സഹകരണ ബാങ്കുകൾ, പ്രഥമിക ഹൗസിംഗ് സംഘങ്ങൾ, പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ, സഹകരണ അർബൻ ബാങ്കുകൾ എന്നിവയ്ക്ക് വൺ ടൈം സെറ്റിൽമെന്റ് പദ്ധതി, 16.8.2002 മുതൽ 3 മാസത്തേക്ക് വീണ്ടും നടപ്പിലാക്കുവാനുള്ള അനുവാതം ഇതിനാൽ നല്കുന്നു. ഈ പദ്ധതിയുടെ കാലാവധി 15.11.2002 ന് അവസാനിക്കുന്നതായിരിക്കും. ടി. സമയപരിധിക്കുള്ളിൽ കുടിശ്ശിക തുക അടച്ചു തീർത്ത് വായ്പാ കുടിശിക അവസാനിപ്പിക്കുന്നതിന് സൂചനകളിലെ നിർദ്ദേശങ്ങൾ കർശനമായി പാലിച്ചുകൊണ്ട് ആനുകൂല്യം അനുവദിച്ചു നൽകാവുന്നതാണ്.

ജെ. രവീന്ദ്രരാജു
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സി.ബി.1/27812/2001

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 9.10.2002

സർക്കുലർ നമ്പർ 36/2002

വിഷയം : **സഹകരണവകുപ്പ് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി 1.7.2002 മുതൽ 15.8.2002 വരെയുള്ള കാലയളവിലേക്ക് കൂടി ടി പദ്ധതിക്ക് പ്രാബല്യം നൽകുന്നത് സംബന്ധിച്ച്.**

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 27.9.2001 ലെ 35/2001, 29.11.2001 ലെ 41/2001, 26.3.2002 ലെ 8/2002, 30.3.2002 ലെ 9/ലെ, 30.4.2002 ലെ 17/2002, 13.5.2002 ലെ 20/2002, 31.5.2002 ലെ 20/എ/2002 എന്നീ നമ്പർ സർക്കുലറുകൾ**
2. ഈ ആഫീസിൽ നിന്നുള്ള 12.10.2001 ലെ മേൽ നമ്പർ മാർഗ്ഗനിർദേശങ്ങൾ
3. ഈ ആഫീസിൽ നിന്നുള്ള 13.11.2001 ലെയും 13.5.2002 ലെയും മേൽ നമ്പർ കത്തുകൾ
4. സഹകരണസംഘം രജിസ്ട്രാറുടെ 16.8.2002 ലെ 30/2002 നമ്പർ സർക്കുലർ.

സംസ്ഥാന സഹകരണ സ്ഥാപനങ്ങളിലെ വർദ്ധിച്ചുവരുന്ന വായ്പാ കുടിശിക കണക്ക് അവസാനിപ്പിക്കുന്നതിനായി സൂചന സർക്കുലറുകൾ/മാർഗ്ഗ നിർദേശങ്ങൾ പ്രകാരം ആവിഷ്ക്കരിച്ച് നടപ്പിൽ വരുത്തിയിരുന്നു. വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതിയുടെ കാലാവധി 30.6.2002 ൽ അവസാനിപ്പിച്ചതിലെതുടർന്ന് സൂചന 4 പ്രകാരം ടി പദ്ധതി 16.8.2002 മുതൽ 3 മാസത്തേയ്ക്ക് കൂടി പുന: സ്ഥാപിച്ച് നൽകിയയിരുന്നു എന്നാൽ 1.7.2002 മുതൽ 15.8.2002 വരെയുള്ള കാലയളവിൽ പ്രസ്തുത പദ്ധതിയുടെ ആനുകൂല്യം ലഭ്യമാകുന്നില്ലായെന്ന് സഹകരണസ്ഥാപനങ്ങളുടേയും സഹകാരികളുടേയും നിരവധി നിവേദനങ്ങൾ ഈ ആഫീസിൽ ലഭിക്കുകയുണ്ടായി. പ്രസ്തുത നിവേദനങ്ങൾ പരിശോധിച്ചതിന്റ അടിസ്ഥാനത്തിൽ വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതിയുടെ ആനുകൂല്യം 1.7.2002 മുതൽ 15.8.2002 വരെയുള്ള കാലയളവിൽ കൂടി പ്രാബല്യത്തിൽ വരുത്തേണ്ടതാണെന്ന് ബോദ്ധ്യമായിരിക്കുന്നു.

മേൽ സാഹചര്യത്തിൽ സൂചന സർക്കുലറുകൾ മുഖേന നടപ്പിലാക്കിയിട്ടുള്ള വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതിയുടെ ആനുകൂല്യം 1.7.2002 മുതൽ 15.8.2002 വരെയുള്ള കാലയളവിൽ കൂടി ബാധകമാക്കുന്നതിന് ഇതിനാൽ അനുവാദം നൽകുന്നു.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സി.ജി. (2) 4551/02

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തിയതി. 01.11.02

സർക്കുലർ നമ്പർ 41/02

വിഷയം : **2001 ലെ കേരള കാർഷിക കടക്കാർ (താൽക്കാലികാശ്വാസ) ആക്റ്റ് സഹകരണ സംഘങ്ങളിൽ നടപ്പാക്കുന്നത് ബഹു. കേരളാ ഹൈക്കോടതി വിധിയുടെ അടിസ്ഥാനത്തിൽ പുതിയ സർക്കുലർ പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹ. സംഘം രജിസ്ട്രാറുടെ 26.03.02 ലെ 7/2002 നമ്പർ സർക്കുലർ**
2. സഹ. സംഘം രജിസ്ട്രാറുടെ 30.04.02 ലെ 16/02 നമ്പർ സർക്കുലർ
3. ബഹു. കേരള ഹൈക്കോടതിയിലെ ഒ.പി. 15705/02 നമ്പർ കേസിലെ 19.06.02 ലെ വിധി. (2002 (2) കെ. എൽ. ൦റി. 648)

2001 ലെ കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം ആക്റ്റ് ആനുകൂല്യം സംസ്ഥാന സഹകരണ സംഘങ്ങളിൽ നിന്നും ചെറുകിട കർഷകർ എടുത്തിട്ടുള്ള കാർഷിക വായ്പയ്ക്ക് ബാധകമാക്കുന്നതിന് സൂചന (1), (2) സർക്കുലറുകൾ പ്രകാരം മാർഗ്ഗനിർദ്ദേശങ്ങൾ പുറപ്പെടുയിച്ചിരിക്കുന്നു. 2001 ലെ കേരള കാർഷിക കടാശ്വാസ നിയമത്തിലെ 5 (1) വകുപ്പ് പ്രകാരം 50,000 രൂപവരെയുള്ള കാർഷിക കടങ്ങളിൽ ആക്റ്റ് പ്രാബല്യത്തിൽ വന്ന 29.12.2001 ൽ കുടിശ്ശിക ആയിട്ടുള്ള കടത്തിനു മാത്രമേ ഈ പദ്ധതി പ്രകാരം ആനുകൂല്യത്തിന് അർഹതയുള്ളു എന്ന് സൂചന (2) സർക്കുലറിൽ വിശദീകരണം നൽകിയിരുന്നു. കടം എന്ന വാക്കിന് സൂചന (2) സർക്കുലറിൽ ആക്റ്റ് പ്രാബല്യത്തിൽ വന്ന 29.12.2001 ൽ കുടിശ്ശികയായ കടം എന്ന് നൽകിയിരുന്ന വിശദീകരണം കടാശ്വാസനിയമത്തിന്റെ ഉദ്ദേശത്തെ തന്നെ പരാജയപ്പെടുത്തുന്നതാണെന്നും ആക്റ്റ് പ്രാബല്യത്തിൽ വന്ന തിയതിയിൽ കുടിശ്ശിക

അല്ലെങ്കിൽപോലും ചെറുകിട കാർഷിക കടക്കാർക്ക് ഈ പദ്ധതി പ്രകാരം ആനുകൂല്യത്തിന് അർഹതയുണ്ടെന്ന് ബഹു: കേരള ഹൈക്കോടതിയുടെ സൂചന (3) ലെ വിധിന്യായത്തിൽ വ്യക്തമാക്കുകയും സഹകരണസംഘം രജിസ്ട്രാറുടെ 30.4.02 ലെ 16/02 നമ്പർ സർക്കുലർ അസാധുവാക്കുകയും ചെയ്തിട്ടുണ്ട്.

മേൽ സാഹചര്യത്തിൽ, 2001 ലെ കാർഷിക കടാശ്വാസ നിയമം പ്രാബല്യത്തിൽ വന്ന 29.12.01 ൽ നിലവിലുണ്ടായിരുന്നതും അസ്സൽ മുതൽ തുക 50,000 രൂപവരെയുള്ള കുടിശ്ശിക ആയതും അല്ലാത്തതുമായ കാർഷിക കടങ്ങൾക്ക് 6 മാസത്തേയ്ക്ക് പലിശ ഇളവും തുടർന്ന് 30 മാസ ഗഡുക്കളായി കുറഞ്ഞ പലിശ നിരക്കിൽ വായ്പ തിരിച്ചടയ്ക്കാനുള്ള സാവകാശം ലഭിക്കുന്നതിനും അർഹതയുണ്ടായിരിക്കും. സൂചന (1) സർക്കുലറിലെ മാർഗ്ഗനിർദേശങ്ങൾ പ്രാബല്യ ത്തിലുണ്ടായിരിക്കുന്നതാണ്.

കർഷകരെടുത്തിട്ടുള്ള 50,000/ രൂപ വരെയുള്ള കാർഷിക വായ്പയിലെ കുടിശ്ശിക ഗഡുക്കളായി തിരിച്ചടയ്ക്കുന്നതിന് കടാശ്വാസ പദ്ധതി പ്രകാരം കൂടുതൽ സമയം അനുവദിച്ചിട്ടുള്ളതിനാൽ പ്രാഥമിക സഹകരണ സംഘങ്ങൾ ജില്ലാ സഹകരണ ബാങ്കുകളിൽ നിന്നും എടുത്തിട്ടുള്ള കാർഷിക വായ്പയുടെ തിരിച്ചടവിലും കുറവ് വന്നിട്ടുള്ളതായി ജില്ലാ സഹകരണ ബാങ്കുകൾ ശ്രദ്ധയിൽപ്പെടുത്തിയിട്ടുണ്ട്. ജില്ലാ സഹകരണ ബാങ്കുകളിലെ കുടിശ്ശിക വർദ്ധിക്കുന്നതിനും നിഷ്ക്രിയ ആസ്തികൾ (എൻ.പി.എ) ഉൾപ്പെടുത്തി കരുതൽ വെയ്ക്കേണ്ടി വരുന്നതുകാരണം വാർഷിക കണക്കെടുപ്പിൽ ലാഭനഷ്ടകണക്ക് പ്രകാരം ജില്ലാ സഹകരണ ബാങ്കുകൾ നഷ്ടത്തിലാകാൻ സാധ്യതയുള്ളതായും ചൂണ്ടിക്കാണിച്ചിട്ടുണ്ട്.

ഈ സാഹചര്യം ഒഴിവാക്കുന്നതിന് പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും എടുത്തിട്ടുള്ള വായ്പകളിൽ കാർഷിക കടാശ്വാസ പദ്ധതി പ്രകാരം ആനുകൂല്യം അനുവദിച്ചതു കാരണം യഥാസമയം തിരിച്ചടവ് നടത്താൻ പ്രാഥമിക വായ്പാ സഹകരണസംഘങ്ങൾക്ക് കഴിയാതിരുന്നത്രയും വായ്പത്തുകയും പലിശയും ജില്ലാ സഹകരണ ബാങ്കുകളുടെ വാർഷിക കണക്കിൽ കുടിശ്ശികയായി പരിഗണിയ്ക്കേണ്ടതില്ല എന്ന് വ്യക്തമാക്കുന്നു.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ സി.ബി.1/27812/01

സഹകരണസംഘം രജിസ്ട്രാറുടെ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 15.11.02

സർക്കുലർ നമ്പർ 44/02

വിഷയം: **സംസ്ഥാനത്തെ സഹകരണ വായ്പാ മേഖലയിലെ കുടിശ്ശിക വായ്പാ കണക്കവസാനിപ്പിക്കുന്നതിന് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുന്നത് സംബന്ധിച്ച്**

സൂചന: **1. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 27.09.01 ലെ 35/01 ാം നമ്പർ സർക്കുലർ**

2. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 12.10.01 ലെ ഇതേ നമ്പർ ആക്റ്റ് പ്രകാരം പുറപ്പെടുവിച്ചിട്ടുള്ള മാർഗ്ഗനിർദേശങ്ങൾ

3. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 29.11.01 ലെ 41/2001 ാം നമ്പർ സർക്കുലർ

4. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 13.11.01 ലെ ഇതേ നമ്പർ കത്ത്

5. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 26.03.2002 ലെ 8/2002 നമ്പർ സർക്കുലർ

6. സഹകരണ സം:ഘം രജിസ്ട്രാറുടെ 30.03.2002 ലെ 9/2002 നമ്പർ സർക്കുലർ

7. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 30.04.02 ലെ 17/2002 നമ്പർ സർക്കുലർ

8. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 13.05.02 ലെ ഇതേ നമ്പർ കത്ത്

9. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 13.05.02 ലെ 20/2002 നമ്പർ സർക്കുലർ

10. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 31.05.02 ലെ 20എ/02 നമ്പർ സർക്കുലർ

11. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 16.08.02 ലെ 30എ/2002 നമ്പർ സർക്കുലർ

12. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 09.10.02 ലെ 36/02 നമ്പർ സർക്കുലർ

സംസ്ഥാന സഹകരണ സ്ഥാപനങ്ങളിലെ വർദ്ധിച്ചു വരുന്ന വായ്പാ കുടിശ്ശിക കണക്ക് അവസാനിപ്പിക്കുന്നതിനായി സൂചന സർക്കുലറുകർ / മാർഗ്ഗ നിർദ്ദേശങ്ങൾ പ്രകാരം 15.11.2002 വരെ കാലാവധി നിശ്ചയിച്ചുകൊണ്ട് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി ആവിഷ്ക്കരിച്ച് നടപ്പിൽ വരുത്തിയിരുന്നു.

പ്രസ്തുത കാലാവധിക്കുളളിൽ സംസ്ഥാനത്തെ വായ്പാ കുടിശ്ശികക്കാർക്ക് ടി പദ്ധതിയുടെ പ്രയോജനം കാര്യമായ രീതിയിൽ പ്രയോജനപ്പെടുത്താൻ സാധിച്ചിട്ടില്ലായെന്ന് ബോദ്ധ്യപ്പെട്ടിട്ടുണ്ട്. പദ്ധതിയുടെ കാലാവധി വീണ്ടും ദീർഘിപ്പിക്കുന്നത് മുതൽ വിവിധ സഹകരണ വായ്പാ സംഘങ്ങൾക്ക് കുടിശ്ശിക കുറയ്ക്കുന്നതിനും ഉപകരിക്കുന്നതാണ്.

മേൽ സാഹചര്യത്തിൽ സംസ്ഥാന സഹകരണ ബാങ്ക്, സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്ക്, സംസ്ഥാന സഹകരണ ഹൗസിംഗ് ഫെഡറേഷൻ, ജില്ലാ സഹകരണ ബാങ്കുകൾ, പ്രാഥമിക ഹൗസിംഗ് സഹകരണ സംഘങ്ങൾ, പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ, സഹകരണ അർബൻ ബാങ്കുകൾ എന്നിവയ്ക്ക് (ബി.ആർ. ആക്ടിന്റെ പരിധിയിൽ ഉൾപ്പെടാത്തത്) വൺ ടൈം സെറ്റിൽമെന്റ് പദ്ധതി 16.11.02 മുതൽ 31.3.2003 വരെയുളള കാലയളവിൽ വീണ്ടും നടപ്പിലാക്കുവാൻ ഇതിനാൽ അനുവാദം നൽകുന്നു. ഈ പദ്ധതിയുടെ കാലാവധി 31.03.2003 നാ അവസാനിക്കുന്നതായിരിക്കും. ടി. സമയപരിധിക്കുളളിൽ കുടിശ്ശിക തുക അടച്ചു തീരാത്ത വായ്പാ കുടിശ്ശിക അവസാനിപ്പിക്കുന്നതിന് സൂചികകളിലെ നിർദ്ദേശങ്ങൾ കാരണമായി പാലിച്ചുകൊണ്ട് ആനുകൂല്യം അനുവദിച്ചു നൽകേണ്ടതാണ്.

ജെ. രവീന്ദ്രരാജു
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ

നമ്പർ സി.ബി. (2) 40790/02

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 21.11.02

സർക്കുലർ നമ്പർ 45/02

വിഷയം : **സഹകരണ വകുപ്പ് സംസ്ഥാനത്തെ സഹകരണ സംഘങ്ങൾ/**

ബാങ്കുകൾ നൽകിവരുന്ന കാർഷികേതര വായ്പകളുടെ പലിശ നിരക്ക് പുതുക്കി നിശ്ചയിക്കുന്നത് സം ബന്ധിച്ച്

സൂചന : **ഈ ആഫീസിലെ 6.8.01 ലെ 29/02 ാം നമ്പർ സർക്കുലർ**

സംസ്ഥാലത്തെ വായ്പാ സഹകരണ സംഘങ്ങൾ/ബാങ്കുകൾ നൽകി വരുന്ന കാർഷികേതര വായ്പകൾക്ക് ഈടാക്കാവുന്ന പരമാവധി പലിശ നിരക്ക് പുതുക്കി നിശ്ചയിക്കുന്നതിന് 14.11.2002 ൽ കണ്ണൂരിൽ വച്ച് കൂടിയ സെൻട്രൽ ബാങ്ക് കോൺഫറൻസിൽ തീരുമാനം കൈക്കൊണ്ട് ശുപാർശ ചെയ്തിരിക്കുന്നു. അതിനനുസ്യതമായി വിവിധ തലങ്ങളിലുളള സഹകരണ ബാങ്കുകൾക്ക് ഈടാക്കാവുന്ന പരമാവധി പലിശ നിരക്ക് താഴെ പറയും വിധം പുന:ക്രമീകരിച്ചിരിക്കുന്നു.

വായ്പാ തുക	പ്രാഥമിക ബാങ്കുകൾ/സംഘങ്ങൾ (അർബൻ ബാങ്കുകൾ ഒഴികെ) വ്യക്തിഗതവായ്പകൾ	ജില്ലാസഹകരണ ബാങ്കുകൾ പ്രാഥമിക ബാങ്ക്/ സംഘങ്ങൾക്ക്
1. 50,000 രൂപ വരെ	12%	11%
2. 50,000 മുതൽ 2 ലക്ഷം വരെ	13%	12.5%
3. 2ലക്ഷം രൂപയ്ക്ക് മുകളിൽ	14%	13.5%

മേൽ നിരക്കിൽ അധികരിക്കാത്തവിധം പലിശ നിരക്ക് നിശ്ചയിക്കുന്നതിന് ബന്ധപ്പെട്ട സഹകരണ ബാങ്ക്/സംഘം ഭരണസമിതിക്ക് അധികാരമുണ്ടായിരിക്കുന്നതാണ്. പുതിയ പലിശ നിരക്ക് 21.11.2002 മുതൽ പ്രാബല്യത്തിൽ വരുന്നതാണ്.

മേൽ പറഞ്ഞ നിരക്കുകളിൽ വായ്പ അനുവദിക്കുന്നതിന് സ്വന്തം ഫണ്ടിന്റെ അഭാവത്തിൽ കേന്ദ്ര/അപക്സ് സ്ഥാപനങ്ങളിൽ നിന്നും കടം എടുക്കേണ്ടിവരുമ്പോൾ പരമാവധി പരിധിക്ക് വിധേയമായി വിവിധ പലിശ നിരക്കുകളിൽ നൽകേണ്ട വായ്പക്കനുസ്യതമായി പ്രത്യേകം പ്രത്യേകം പരിധികൾ നിശ്ചയിച്ച് നൽകേണ്ടതും കണക്കുകൾ സൂക്ഷിക്കേണ്ടതും അതാതു അക്കൗണ്ടുകളിൽ നിന്നുമാത്രം ഇടപാടുകൾ നടത്തുന്നതിന് ശ്രദ്ധിക്കേണ്ടതുമാണ്. പുനർ വായ്പയായി പ്രാഥമിക സംഘങ്ങൾ ജില്ലാ ബാങ്കിനെ സമീപിക്കുമ്പോൾ മേൽപറഞ്ഞ രീതിയിൽ സ്ളാബു തലത്തിലുളള ആനുകൂല്യം ലഭിക്കണമെങ്കിൽ ക്വാണ്ടം വൈസ് സ്റ്റേറ്റുമെന്റ് കൂടി അപേക്ഷയോടൊപ്പം നിർബന്ധമായും സമർപ്പിച്ചിരിക്കണം.

സഹകരണ സംഘം രജിസ്ട്രാർ

നമ്പർ സിബി.4/42360/2001

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തിയതി 18.11.2002

സർക്കുലർ നമ്പർ 47/2002

വിഷയം : **സഹകരണ അർബൻ ബാങ്കുകളുടെ ഒററ തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ കാലാവധി ദീർഘിപ്പിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. ഈ ഓഫീസിലെ 29.11.01 ലെ 41/2001 ാം നമ്പർ സർക്കുലർ**
2. ഈ ഓഫീസിലെ 30.3.2002 ലെ 9/2002 ാം നമ്പർ സർക്കുലർ
3. ഈ ഓഫീസിലെ 30.4.2002 ലെ 17/02 ാം നമ്പർ സർക്കുലർ

4. ഈ ഓഫീസിലെ 31.05.02 ലെ 20 എ/2002 ാം നമ്പർ സർക്കുലർ
5. ഈ ഓഫീസിലെ 16.08.02 ലെ 30/2002 ാം നമ്പർ സർക്കുലർ
6. ഈ ഓഫീസിലെ 9.10.02 ലെ 36/02 ാം നമ്പർ സർക്കുലർ
7. ഭാരതീയ റിസർവ് ബാങ്കിന്റെ 17.7.2002 ലെ ബി.എസ്.സിസി.എസ്. 256/ 12.05.05 (ഒ.ററി.എസ്) 2002/2000 ാം നമ്പർ കത്ത്

കേരളത്തിൽ സംസ്ഥാന സർക്കാരിന്റെയും ഭാരതീയ റിസർവ് ബാങ്കിന്റേയും ഇരട്ട നിയന്ത്രണത്തിൽ പ്രവർത്തിക്കുന്ന സഹകരണ അർബൻ ബാങ്കുകളിലെ കുടിശ്ശിക കുറയ്ക്കുന്നതിനായി ഒരു ഒററ തവണ തീർപ്പാക്കാൻ പദ്ധതി സൂചന 1 പ്രകാരം നടപ്പാക്കുകയുണ്ടായി. ടി പദ്ധതിയുടെ സൂചന 2 മുതൽ 6 വരെയുള്ള സർക്കുലറുകൾ മുഖാന്തിരം 15.11.2002 വരെ ദീർഘിപ്പിച്ചു നൽകിയിരുന്നു. എന്നാൽ ഈ പദ്ധതിയുടെ ആനുകൂല്യം കാര്യമായ രീതിയിൽ കൂടുതൽ കുടിശ്ശികക്കാരായ അംഗങ്ങൾക്ക് പ്രയോജനപ്പെടുവാനും സംസ്ഥാനത്ത് ഉടനീളം ക്രമമായ രീതീയിൽ നിയമാനുസ്യതം കുടിശ്ശിക വായ്പാ കണക്ക് അവസാനിപ്പിക്കുന്നതിന് അവസരം നൽകുന്നതിനുമായി ടി പദ്ധതിയുടെ കാലാവധി 16.11.2002 മുതൽ 31.3.2003 വരെ ദീർഘിപ്പിക്കുവാൻ ഇതിനാൽ അനുവാദം നൽകുന്നു. ഈ പദ്ധതി പ്രകാരം നടപ്പാക്കുന്നത് സൂചന 7 പ്രകാരമുള്ള ഭാരതീയ റിസർവ്വ് ബാങ്കിന്റെ നിർദ്ദേശപ്രകാരം 31.12.02 വരെ ലഭിക്കുന്ന അപേക്ഷകൾക്ക് മാത്രമായിരിക്കണം. ഈ അപേക്ഷകളിലെ തീർപ്പാക്കൽ 31.3.2003 ന് മുൻപ് നടത്തിയിരിക്കേണ്ടതാണ്.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ

നമ്പർ സി.ബി.(1) 27812/2001

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 2.12.2002

സർക്കുലർ നമ്പർ 49/2002

വിഷയം : **സംസ്ഥാനത്തെ സഹകരണ മേഖലയിലെ കുടിശ്ശിക വായ്പാ കണക്കവസാനിപ്പിക്കുന്നതിന് വൺടൈം സെററിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **സഹകരണ സംഘം രജിസ്ട്രാറുടെ 27.9.2001 ലെ 35/2001 ാം നമ്പർ സർക്കുലറും തുടർന്നുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങൾ/സർക്കുലറുകളും**

സംസ്ഥാനത്തെ മേഖലയിലെ വിവിധ സ്ഥാപനങ്ങളിൽ നിന്നും നൽകിയിട്ടുള്ള വായ്പകളിൽ ഭൂരിഭാഗവും കുടിശ്ശികയായി നിലനിൽക്കുന്നതായും തൻമൂലം അംഗങ്ങൾക്കും, സ്ഥാപനങ്ങൾക്കും പല വിധത്തിലുള്ള ബുദ്ധിമുട്ടുകൾ അനുഭവപ്പെടുന്നതായും സർക്കാരിന്റെ ശ്രദ്ധയിൽപ്പെട്ടതിന്റെ അടിസ്ഥാനത്തിൽ സൂചനയിലെ നിർദ്ദേശാനുസരണം 1.10.2001 മുതൽ 31.3.2003 വരെ കാലാവധി നിശ്ചയിച്ചുകൊണ്ട് വൺടൈം സെററിൽമെന്റ് പദ്ധതി നടപ്പിലാക്കുവാൻ വേണ്ട അനുവാദം സംസ്ഥാന എല്ലാ സഹകരണ സ്ഥാപനങ്ങൾക്കും നൽകിയിട്ടുണ്ട്. എന്നാൽ സംസ്ഥാനത്തെ പല സഹകരണ സംഘങ്ങളും ടി പദ്ധതി ക്യത്യമായി നടപ്പിലാക്കുന്ന കാര്യത്തിൽ വീഴ്ച വരുത്തുന്നതായി പരാതികൾ ലഭിച്ചിട്ടുണ്ട്. സൂചന പ്രകാരം സഹകരണ സംഘം രജിസ്ട്രാർ പുറപ്പെടുവിച്ചിട്ടുള്ള നിർദ്ദേശങ്ങൾ ക്യത്യമായി

പാലിക്കാത്ത സഹകരണ സംഘങ്ങൾക്കെതിരെ കർശന നടപടി സ്വീകരിക്കുകയാണെന്ന് ഇതിനാൽ അറിയിക്കുന്നു. ടി നിർദ്ദേശങ്ങൾ ജീവനക്കാർ കൃത്യമായി പാലിക്കുന്നുണ്ടോ എന്ന് ഭരണസമിതി ഉറപ്പുവരുത്തേണ്ടതാണ്.

ജെ. രവീന്ദ്ര രാജു
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്

നമ്പർ. സി.ബി.(2) സഹകരണ സംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 21.01.2003

സർക്കുലർ നമ്പർ 2/03

വിഷയം : **സഹകരണവകുപ്പ് സംസ്ഥാനത്തെ/ബാങ്കുകൾ നൽകിവരുന്ന കാർഷികേതര വായ്പകളുടെ പലിശനിരക്ക് പുതുക്കി നിശ്ചയിക്കുന്നത് സംബന്ധിച്ച ഉത്തരവ് ശുദ്ധീപത്രം പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **ഈ ആഫീസിന്റെ 21.11.2002.ലെ 45/02.ാം നമ്പർ സർക്കുലർ**

സൂചനയിലെ സർക്കുലർ നിർദ്ദേശത്തിൽ 3.ാം ഖണ്ഡികയിലെ വാചകം താഴെപ്പറയുന്ന പ്രകാരം തിരുത്തി വായിക്കേണ്ടതാണ്. പുനർ വായ്പയായി പ്രാഥമിക സംഘങ്ങൾ ജില്ലാ ബാങ്കിനേയും, ജില്ലാസഹകരണ ബാങ്കുകൾ സഹകരണ ബാങ്കിനെയും സമീപിക്കുവാൻ മേൽപ്പറഞ്ഞ രീതിയിൽ സ്ലാബുതലത്തിലുള്ള ആനുകൂല്യം ലഭിക്കണമെങ്കിൽ ക്വാണ്ടംവൈസ് സ്റ്റേറ്റ്മെന്റ് കൂടി അപേക്ഷയോടൊപ്പം നിർബന്ധമായും സമർപ്പിച്ചിരിക്കണം

സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്

നമ്പർ.സി.ജി.(1) 6954/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 21.2.2003

സർക്കുലർ നമ്പർ 8/2003

വിഷയം : **24-ാമത് സഹകരണ നിക്ഷേപ സമാഹരണ യജ്ഞത്തോടൊപ്പം നടത്തുന്ന കുടിശ്ശിക നിർമ്മാർജ്ജന പരിപാടി - കൃത്യമായി വായ്പ തിരിച്ചടയ്ക്കുന്നവർക്ക് പലിശ ഇളവ് നൽകുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. 11.2.2003ൽ കൂടിയ ജില്ലാ സഹകരണ ബാങ്കുകളുടെ സമ്മേളന തീരുമാനം**
2. 11.2.2003ൽ ബഹു: സഹകരണ തുറമുഖ വകുപ്പ് മന്ത്രിയുടെ അദ്ധ്യക്ഷതയിൽ കൂടിയ 24.ാംമത് നിക്ഷേപ സമാഹരണ യജ്ഞം കുടിശ്ശിക നിർമാർജ്ജനം എന്നിവകളെ സംബന്ധിച്ച് കൂടിയ സംസ്ഥാനതല യോഗ തീരുമാനം

സംസ്ഥാനത്തെ വായ്പാ സഹകരണ സംഘങ്ങളുടെ ആഭിമുഖ്യത്തിൽ നടത്തപ്പെടുന്ന 24.ാംമത് സഹകരണ നിക്ഷേപ സമാഹരണയജ്ഞത്തോടൊപ്പം വായ്പാ കുടിശ്ശിക കുറയ്ക്കുക എന്ന ലക്ഷ്യത്തോടെ നടത്തിവരുന്ന കുടിശ്ശിക നിർമ്മാർജ്ജന പരിപാടി 2003 മാർച്ച് മാസം 1.ാം തീയതി മുതൽ 31.ാം തീയതിവരെ നടത്താൻ സൂചന ഒന്ന, രണ്ടു പ്രകാരം തീരുമാനിച്ചിട്ടുണ്ട്.

സഹകരണ സംഘങ്ങളിൽ നിന്നെടുത്ത വായ്പ കൃത്യമായി തിരിച്ചടയ്ക്കുന്നവർക്ക് പ്രോത്സാഹനം നൽകുന്നതിന് നിക്ഷേപ സമാഹരണ യജ്ഞം ആചരിക്കുന്ന കാലയളവിൽ വായ്പ തുക കൃത്യമായി അടയ്ക്കുന്നവർക്ക് അതാത് സംഘങ്ങൾതന്നെ ഒരു ശതമാനം (1%) പലിശ ഇളവ് നൽകേണ്ടതാണ്. കൂടാതെ പ്രസ്തുത കാലയളവിൽ സ്ഥിര നിക്ഷേപങ്ങൾക്ക് 1/2% കൂടുതൽ പലിശയും നൽകേണ്ടതാണ്. നിക്ഷേപ സമാഹരണ യജ്ഞം ആരംഭിക്കുന്ന മാർച്ച് ഒന്നു മുതൽ തന്നെ ഇതിന് പ്രാബല്യം നൽകേണ്ടതാണ് നിക്ഷേപ സമാഹരണ യജ്ഞം അവസാനിച്ച് 10 ദിവസങ്ങൾക്കകം ചുവടെ ചേർത്തിരിക്കുന്ന വിവരങ്ങൾ ജില്ലാ തലത്തിൽ ക്രോഡീകരിച്ച് ഈ ആഫീസിലേയ്ക്ക് അയച്ചുതരേണ്ടതാണ്.

1. കുടിശ്ശിക നിർമ്മാർജ്ജന പരിപാടി നടപ്പിലാക്കിയ സംഘങ്ങളുടെ എണ്ണം
2. ഈ കാലയളവിൽ കൃത്യമായി തിരിച്ചടച്ച വായ്പകളുടെ എണ്ണം
3. കൃത്യമായി തിരിച്ചടച്ച വായ്പതുക
4. കൃത്യമായി തിരിച്ചടച്ച പലിശ
5. 1% പലിശ ഇളവ് നൽകിയ തുക

31.3.2003 വരെ പ്രാബല്യത്തിലുള്ളതും 31.3.2002 വരെയുള്ള കുടിശ്ശിക അടച്ചുതീർക്കുന്നതിന് സഹകരണ സംഘങ്ങൾക്കും കുടിശ്ശികക്കാരായ വായ്പക്കാർക്കും വളരെയേറെ പ്രയോജനപ്രദവുമായ വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി യ്ക്ക് നിക്ഷേപ സമാഹരണ യജ്ഞ കാലയളവിൽ കൂടുതൽ പ്രചാരം പരമാവധി കുടിശ്ശിക പിരിച്ചെടുക്കുന്നതിന് സംഘങ്ങൾ ശ്രമം നടത്തേണ്ടതാണ്. പ്രസ്തുത പദ്ധതിയിൽ പ്രഖ്യാപിച്ചിട്ടുള്ള എല്ലാ ആനുകൂല്യങ്ങളും കർശനമായും നൽകേണ്ടതാണ്.

സഹകരണസംഘം രജിസ്ട്രാർ.ഇൻ.ചാർജ്ജ്

നമ്പർ. സി.ബി.(2) 40790/2002

സഹകരണസംഘം **രജിസ്ട്രാർ** ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 22.2.2003

സർക്കുലർ നമ്പർ 10/2003

വിഷയം : **സഹകരണ വകുപ്പ് സംസ്ഥാനത്തെ സഹകരണ സംഘങ്ങൾ/ബാങ്കുകൾ നൽകിവരുന്ന ഹ്രസ്വകാല കാർഷിക/കാർഷികേതര വായ്പകളുടെ പലിശ നിരക്ക് പുതുക്കി നിശ്ചയിച്ചത് - നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു**

സൂചന : **1. ഈ ആഫീസിലെ 21.11.2002ലെ 45/2002.ാം നമ്പർ സർക്കുലർ**
2. 11.2.2003 ൽ കൂടിയ സെൻട്രൽ ബാങ്ക് കോൺഫറൻസ് തീരുമാനം
3. കേരള സംസ്ഥാന സഹകരണ ബാങ്കിന്റെ 21.2.03 ലെ ആർ.എഫ്.ഡി./ജി.ഡി/333/746/2002.2003 നമ്പർ കത്ത്

സൂചന രണ്ടിലെ തീരുമാനമനുസരിച്ച് നബാർഡിൽ നിന്നും പുനർവായ്പ പത്ത് ജില്ലാ സഹകരണ ബാങ്കുകൾക്ക് ലഭ്യമാകാത്ത സാഹചര്യത്തിൽ താഴെ പറയുന്ന രീതിയിൽ ഹ്രസ്വകാല കാർഷിക വായ്പയ്ക്ക് നിലവിലുള്ള പലിശനിരക്ക് പുനർ നിർണ്ണയം ചെയ്തിരിക്കുന്നു.

സംസ്ഥാന സഹകരണബാങ്ക് ജില്ലാ ബാങ്കിന് കൊടുക്കുന്നത് ജില്ലാ സഹകരണ ബാങ്ക് പ്രാഥമിക സഹകരണസംഘങ്ങൾക്ക് ബാങ്കുകൾ കൊടുക്കുന്നത് 9.5% സർവ്വീസ്

സഹകരണസംഘം ബാങ്ക് ഗുണഭോക്താവിന് കൊടുക്കുന്നത് 10.5%.

സഹകരണ സംഘങ്ങളുടെ കാർഷികേതര ഹ്രസ്വകാല പുനർവായ്പക്കുള്ള പലിശ നിരക്കുകൾ താഴെപ്പറയുന്ന രീതിയിൽ പുനർനിർണ്ണയം നടത്തി ഉത്തരവായിട്ടുണ്ട്. അതനുസരിച്ച് സംസ്ഥാന സഹകരണബാങ്ക് ജില്ലാ സഹകരണബാങ്കുകൾക്ക് 10.50% ഉം, ജില്ലാ സഹകരണ ബാങ്കുകൾ പ്രാഥമിക സഹകരണസംഘങ്ങൾക്ക്/ ബാങ്കുകൾക്ക് 11%ഉം നിരക്കിൽ കാർഷികേതര പുനർ വായ്പകൾ കൊടുക്കേണ്ടതാണ്. ജില്ലാ സഹകരണ ബാങ്ക് നേരിട്ട് നൽകുന്ന വ്യക്തിഗത വായ്പയുടെ പുനർവായ്പയ്ക്ക് സംസ്ഥാന സഹകരണ ബാങ്കിന് 11% പലിശ ഈടാക്കേണ്ടതാണ്.

ദീർഘകാല വായ്പയുടെ ഗഡുക്കൾ കൃത്യമായി അടയ്ക്കുന്ന ഗുണഭോക്താക്കൾക്ക് ഫ്ളോട്ടിംഗ് പലിശ അനുവദിക്കേണ്ടതാണ്.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്

നമ്പർ.സി.ജി. 1/9723/2003
സഹകരണസംഘം രജിസ്റ്റാർ ആഫീസ്,
തിരുവനന്തപുരം, 28.2.2003

സർക്കുലർ നമ്പർ 13/2003

വിഷയം : **പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണസംഘങ്ങൾ മുഖേന കൃത്യമായി വായ്പ തിരിച്ചടയ്ക്കുന്ന കർഷകർക്ക് ഗ്രീൻ കാർഡ് സമ്പ്രദായം ഏർപ്പെടുത്തുന്നത് സംബന്ധിച്ച്**

സൂചന : **11.2.2003 ൽ തിരുവനന്തപുരത്ത് സംസ്ഥാനസഹകരണ ബാങ്ക് കോൺഫറൻസ് ഹാളിൽ വച്ചു കൂടിയ ജില്ലാ ബാങ്ക് സമ്മേളനത്തിലെ തീരുമാനം**

പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങളിൽ നിന്നും ഇപ്പോൾ വിതരണം ചെയ്യുന്ന ഹ്രസ്വകാല വായ്പകൾ തിരിച്ച് അടച്ചു കഴിഞ്ഞാൽ കർഷകർക്ക് അടുത്ത വായ്പ അനുവദിച്ചു കിട്ടുന്നതിന് ഉണ്ടാകുന്ന കാലതാമസം ഒഴിവാക്കുന്നതിന് കൃത്യമായി വായ്പ അടയ്ക്കുന്ന കർഷകർക്ക് ഗ്രീൻ കാർഡ് സമ്പ്രദായം നടപ്പിലാക്കുവാൻ സൂചന പ്രകാരം തീരുമാനിച്ചിട്ടുണ്ട്.

പ്രാഥമിക കാർഷിക വായ്പ സഹകരണ സംഘവുമായി അതിലെ അംഗമായ കർഷകന്റെ വായ്പാ പ്രവർത്തനങ്ങൾ വിലയിരുത്തി കൃത്യമായി വായ്പ അടയ്ക്കു ന്നതാണെന്ന് ബോധ്യപ്പെടുന്ന കർഷകന് ഭരണസമിതി തീരുമാനപ്രകാരം ഗ്രീൻ കാർഡ് അനുവദിക്കാവുന്നതാണ്. ഗ്രീൻകാർഡ് ലഭിക്കുന്ന കർഷകന്റെ വായ്പാ ആവശ്യം വിലയിരുത്തി ഭരണസമിതി ക്രെഡിറ്റ് ലിമിറ്റ് നിശ്ചയിച്ചു നൽകേണ്ടതാണ്.

ഗ്രീൻകാർഡുള്ള കർഷകന്റെ അപേക്ഷ പ്രകാരം ക്രഡിറ്റ് ലിമിറ്റിന്റെ പരിധിക്കുള്ളിലുള്ള തുക ചീഫ് എക്സിക്യൂട്ടീവിന് അനുവദിക്കാവുന്നതാണ്. വായ്പാ കുടിശ്ശിക വരുത്തിയാൽ ഗ്രീൻ കാർഡിനുള്ള അർഹത നഷ്ടപ്പെടുന്നതാണ്.

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സി.ബി.(1) 27812/01

സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 14.3.2003

സർക്കുലർ നമ്പർ 16/03

വിഷയം : **സംസ്ഥാനത്തുള്ള സഹകരണസംഘങ്ങളിലെ കുടിശ്ശിക നിവാരണത്തിന് വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പാക്കുന്നത് തിരുത്തൽ ഉത്തരവ് പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്.**

സൂചന : **1. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 27.9.2001ലെ 35/01-ാം നമ്പർ സർക്കുലർ**
2. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 29.11.2001 ലെ 41/01-ാം നമ്പർ സർക്കുലർ
3. സഹകരണ സംഘം രജിസ്ട്രാരുടെ 26.3.2002 ലെ 8/02 -ാം നമ്പർ സർക്കുലർ
4. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 9/02, 17/02, 20/02, 47/02, 49/02, 9/03, 10/03 എന്നീ നമ്പർ സർക്കുലർ
5. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 27.2.2003 ലെ 12/03 നമ്പർ സർക്കുലർ

മേൽ പ്രസ്താവിച്ച സർക്കുലറുകൾ പ്രകാരം കേരളത്തിൽ സംസ്ഥാന സർക്കാരിന്റെയും ഭാരതീയ റിസർവ്വ് ബാങ്കിന്റെയും നിയന്ത്രണത്തിൽ പ്രവർത്തിക്കുന്ന സഹകരണ സ്ഥാപനങ്ങളിലെ കുടിശ്ശിക കുറയ്ക്കുന്നതിനായി ഒരു ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി നടപ്പാക്കുകയുണ്ടായി. വൺ ടൈം സെറ്റിൽമെന്റിന്റെ കാലാവധി 31..3.2003 വരെയാണ് ദീർഘിപ്പിച്ചു നൽകിയിട്ടുള്ളത്.

സൂചന 5 പ്രകാരം 27.8.2003 ൽ ഈ ആഫീസിൽ നിന്നും 12/03 നമ്പരായി ഇറക്കിയിട്ടുള്ള സർക്കുലറിലെ മൂന്നാം ഖണ്ഡിക താഴെ പറയുന്ന പ്രകാരം തിരുത്തി വായിക്കേണ്ടതാണ്.

കുടിശ്ശികയായ തുക (സെറ്റിൽമെന്റു തുക) യുടെ 10% ഈ കാലാവധി മുമ്പ് (31.3.2003) അടയ്ക്കുന്നവർക്ക് വൺടൈം സെറ്റിൽമെന്റിന്റെ ആനുകൂല്യം ലഭ്യമാകുന്നതാണ്. എന്നാൽ സെറ്റിൽമെന്റ് തുകയുടെ ബാക്കിവരുന്ന തുക പരമാവധി 10 പ്രതിമാസ ഗഡുക്കളായി 1.4.2003 മുതൽ അടച്ചുതീർക്കൽ അവസരം നൽകേണ്ടതുമാണ്. 31.3.2003 നകം 10% അടയ്ക്കുന്നവർക്കും തുടർന്ന പ്രതിമാസ ഗഡുക്കൾ അടയ്ക്കുന്നവർക്ക് മാത്രമെ വൺ ടൈം സെറ്റിൽമെന്റിന്റെ ആനുകൂല്യം കിട്ടുകയുള്ളു.

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സി.ബി.(1) 27812/2001

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 22.3.2003

സർക്കുലർ നമ്പർ 17/2003

വിഷയം : **സഹകരണസംഘങ്ങളിലെ കുടിശ്ശിക നിവാരണത്തിനുള്ള വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി നടപ്പാക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 27.9.2001 ലെ 35/2001-ാം നമ്പർ സർക്കുലർ**
2. സഹകരണസംഘം രജി സ്ട്രാറുടെ 20.11.2001 ലെ 41/2001-ാം നമ്പർ സർക്കുലർ
3. സഹകരണസംഘം രജിസ്ട്രാരുടെ 26.3.2002ലെ 8/2002-ാം നമ്പർ സർക്കുലർ

4. സഹകരണസംഘം രജിസ്ട്രാറുടെ 9/2002, 17/2002, 20/2002, 47/2002, 49/2002, 9/2003, 10/2003 എന്നീ നമ്പർ സർക്കുലറുകൾ

5. സഹകരണസംഘം രജിസ്ട്രാറുടെ 27.2.2003 ലെ 12/2003-ാം നമ്പർ സർക്കുലർ

6. സഹകരണസംഘം രജിസ്ട്രാറുടെ 14.3.2003 ലെ 16/2003-ാം നമ്പർ സർക്കുലർ

സൂചന 1ലെ സർക്കുലർ പ്രകാരം സംസ്ഥാനത്തെ സഹകരണ വകുപ്പിന്റെ കീഴിൽ പ്രവർത്തിക്കുന്ന എല്ലാ വായ്പാ സഹകരണ സ്ഥാപനങ്ങളിലെയും കുടിശ്ശിക കുറയ്ക്കുന്നതിനായി ഒരു വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി 1.10.2001 മുതൽ 6 മാസക്കാലത്തേയ്ക്ക് നടപ്പാക്കുകയുണ്ടായി. 31.3.2001ലെ കുടിശ്ശികയ്ക്കാണ് ടി പദ്ധതിയുടെ ആനുകൂല്യം ബാധകമാക്കിയത്. ടി പദ്ധതിയുടെ പ്രയോജനം കൂടുതൽ അംഗങ്ങൾക്ക് ലഭ്യമാകുന്നതിന്റെ ഭാഗമായി കാലാവധി വീണ്ടും ദീർഘിപ്പിക്കുകയും അപ്രകാരം വൺടൈം സെറ്റിൽമെന്റിന്റെ കാലാവധി 31.3.2003ന് അവസാനിക്കുകയുമാണ്.

വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി അനുസരിച്ച് കുടിശ്ശികയുടെ 10% അടയ്ക്കുകയും എന്നാൽ വ്യകാതമായ പ്രത്യേക കാരണങ്ങളാൽ 31.3.2003 നകം ബാക്കി തുക അടച്ചു തിർക്കുവാൻ കഴിയാത്തവരുമായ വായ്പാക്കാരുടെ അഭ്യർത്ഥന കണക്കിലെടുത്ത് താഴെ പറയുന്ന നിർദ്ദേശം എല്ലാ സഹകരണ സംഘങ്ങളുടെയും അറിവിലേക്കും ആവശ്യമായ നടപടികൾക്കുമായി നൽകുന്നു.

1. വൺടൈം സെറ്റിൽമെന്റ് പദ്ധതി അനുസരിച്ച് കുടിശ്ശികത്തുകയുടെ 10% അടച്ച് അപേക്ഷ സമർപ്പിക്കുകയും കാലാവധിക്കു മുമ്പ് ഒന്നായോ തവണകളായോ മുഴുവൻ തുകയും അടച്ചുത്തീർക്കണമെന്നും നിർദ്ദേശിച്ചിരുന്നു.അപ്രകാരം 10% തുക അടച്ച് അപേക്ഷ സമർപ്പിക്കുകയും എന്നാൽ 31.3.2003 ന് മുമ്പ് ബാക്കി തുക അടച്ചുത്തീർക്കാൻ കഴിയാതെ വരുകയും ചെയ്തവർക്ക് അവരവരുടെ അപേക്ഷ പ്രകാരം 31.3.2003 ന് ശേഷം ബാക്കിത്തുക പരമാവധി പത്തു പ്രതിമാസ തവണകളായി അടച്ചുതീർക്കാൻ അനുവാദം നൽകാവുന്നതാണ്.

2. 31.3.2001ന് ശേഷം (31.3.2002 വരെ) കുടിശ്ശികയായി വായ്പകൾക്ക് വൺടൈം സെറ്റിൽമെന്റ് പ്രകാരമുള്ള ആനുകൂല്യം നൽകുവാൻ അതാതു സംഘങ്ങൾക്ക് അധികാരമുണ്ടായിരിക്കുമെന്ന് നേരത്തെ അറിയിച്ചിരുന്നു. ടി. വിഭാഗത്തിലുള്ളവർക്ക് മേൽപ്പറഞ്ഞ ആനുകൂല്യത്തിന് അർഹതയുണ്ടായിരിക്കും.

3. ബാങ്കിംഗ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരുന്ന സഹകരണ സ്ഥാപനങ്ങൾ റിസർവ്വ് ബാങ്കിന്റെ നിർദ്ദേശത്തിനും, സംസ്ഥാനജില്ലാ സഹകരണബാങ്കുകൾ സെൻട്രൽ ബാങ്ക് കോൺഫറൻസ് തീരുമാനപ്രകാരം അംഗീകരിച്ചിട്ടുള്ള സെറ്റിൽമെന്റ് സ്കീമിന് വിധേയമായും മേൽ നിർദ്ദേശങ്ങൾ നട പ്പിലാക്കേണ്ടതാണ്.

4. മേൽപ്പറഞ്ഞ ആനുകൂല്യം ലഭിക്കുന്നതിന് ആയതിലേയ്ക്കുള്ള അപേക്ഷകൾ ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർ(ജനറൽ)ക്ക് നൽകേണ്ടതും ജോയിന്റ് രജിസ്ട്രാർ ടി അപേക്ഷയിന്മേൽ മേൽപ്പറഞ്ഞ ആനുകൂല്യം നൽകുന്നതിനുള്ള നിർദ്ദേശം ബന്ധപ്പെട്ട സംഘങ്ങൾക്ക് നൽകേണ്ടതുമാണ്.

5. ഈ നിർദ്ദേശങ്ങൾ എല്ലാ സഹകരണ സ്ഥാപനങ്ങളും പാലിക്കുന്നുണ്ടെന്ന് എല്ലാ ജോയിന്റ് രജിസ്ട്രാർമാരും ഉറപ്പുവരുത്തേണ്ടതാണ്.

ജെ.രവീന്ദ്രരാജു

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സി.ജി. (1) 6954/03 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 2/5/03

സർക്കുലർ നമ്പർ 25/03

വിഷയം : **കൃത്യമായി വായ്പ തിരിച്ചടയ്ക്കുന്നവർക്ക് പലിശ ഇളവ് ഏർപ്പെടുത്തുന്നത് സംബന്ധിച്ച്**

സൂചന : **1) 11.2.2003ൽ കൂടിയ ജില്ലാ സഹകരണ ബാങ്കുകളുടെ സമ്മേളന തീരുമാനം**
2 k l l cW k wL wcPmk {SnmcpsS 21.2.2003 se 8/2003 -ാം നമ്പർ സർക്കുലർ
3) സഹകരണ സംഘം രജിസ്ട്രാരുടെ 28.3.2003 ലെ 13/2003 -ാം നമ്പർ സർക്കുലർ

സംസ്ഥാനത്തെ എല്ലാ വായ്പാ സഹകരണസംഘങ്ങളിൽ നിന്നെടുത്ത വായ്പകൾ കൃത്യമായി തിരിച്ചടയ്ക്കുന്നവർക്ക് പ്രോൽസാഹനം നൽകുന്നതിലേക്കായി നിക്ഷേപക സമാഹരണയജ്ഞം ആചരിക്കുന്ന കാലയളവിൽ വായ്പ തുക കൃത്യമായി അടയ്ക്കുന്നവർക്ക് അതാത് സഹകരണസംഘങ്ങൾ തന്നെ ഒരു ശതമാനം (1%) പലിശ ഇളവ് നൽകേണ്ടതാണെന്ന് സൂചന (2) പ്രകാരം നിർദ്ദേശം നൽകിയിട്ടുണ്ടായിരുന്നു. എന്നാൽ നിക്ഷേപക സമാഹരണ യജ്ഞം ഇപ്പോൾ അവസാനിച്ച സാഹചര്യത്തിൽ വായ്പതുക കൃത്യമായി അടച്ചു തീർക്കുന്നവർക്ക് പ്രയോജനം ലഭിക്കുന്നതിലേക്കായി ടി സഹകരണ സംഘങ്ങളിലെ വായ്പക്കാർക്ക് ഒരു ശതമാനം 1% പലിശ ഇളവ് അതാത് സംഘങ്ങൾ തന്നെ തുടർന്നും നൽകുന്നതിനുള്ള അനുവാദം ഇതിനാൽ നൽകുന്നു.

പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണസംഘങ്ങളിൽ നിന്നും ഇപ്പോൾ വിതരണം ചെയ്യുന്ന വായ്പ കൃ ത്യമായി തിരിച്ചടയ്ക്കുന്ന കർഷകന് ഗ്രീൻ കാർഡ് അനുവദിക്കു ന്നതിലേക്കായി സൂചന 3 പ്രകാരം പുറപ്പെടുവിച്ചിട്ടുള്ള സർക്കുലർ നിർദ്ദേശങ്ങൾക്ക് കൂടുതൽ പ്രചാരം നൽകുന്നതിനുള്ള ശ്രമം നടത്തേണ്ടതാണ്.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സി.ബി.(1) 14796/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 13.5.2003

സർക്കുലർ നമ്പർ 27/2003

വിഷയം : **കാസർഗോഡ് ജില്ലയിൽ അടയ്ക്ക കാർഷിക മേഖലയിലെ വിലയിടിവ്. ദുരിതം കണക്കിലെടുത്തു 31.8.03 വരെ ടി ജില്ലയിൽ മാത്രം ഒറ്റതവണ തീർപ്പാക്കാൻ പദ്ധതി നീട്ടികൊടുക്കുന്നത് സംബന്ധിച്ച്**

സൂചന: 1. 27.9.2001 ലെ 35/2001. 1 നമ്പർ മുതൽ ടി വിഷയത്തിൽ 18/30 -ാം നമ്പറായി 26.3.2003 വരെ ഇറക്കിയിട്ടുള്ള സർക്കുലറുകൾ
2. കാസർഗോഡ് ജില്ലയിലെ അടയ്ക്കാ കർഷകരുടെ നിവേദനം

കാസർഗോഡ് ജില്ലയിൽ നല്ലൊരു വിഭാഗം ജനങ്ങൾ അടയ്ക്കാ കൃഷിയും അതിനോടനുബന്ധിച്ചുള്ള തൊഴിലുകളിൽ മുഴുകിയിട്ടുള്ളവരുമാണ്. ആഗോളവൽക്കരണത്തിന്റെ ദൂഷ്യഫലമായി അടയ്ക്കാ ഉൽപ്പന്നങ്ങൾക്ക് ഗണ്യമായ വിലയിടിവുണ്ടായി. അടുത്ത കാലത്തൊന്നും ന്യായമായ വില കിട്ടുമെന്ന് പ്രതീക്ഷയുമില്ല. ഈ ദുസ്ഥിതിയിൽ കാസർഗോഡ് ജില്ലയിലെ വായ്പാ സഹകരണ സ്ഥാപനങ്ങളിലെ കുടിശ്ശികക്കാർക്ക് മാത്രമായി ഒറ്റതവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ

ആനുകൂല്യം 31.8.03 വരെ നീട്ടി ഉത്തരവായിരിക്കുന്നു.

31.8.2003 നകം മുഴുവൻ കുടിശ്ശികയും അടച്ചു തീർക്കാൻ കഴിയാത്തവർക്ക് കുടിശ്ശിക തുകയുടെ 10% സംഘത്തിൽ 31.9.03 നകം അടച്ചു അപേക്ഷ സമർപ്പിക്കാവുന്നതും ബാക്കി കുടിശ്ശിക തുക 1.9.03 മുതൽ ഗഡുക്കളായി അടച്ചു തീർക്കാവുന്നതുമാണ്. ടി അപേക്ഷയുടെ ഒരു പകർപ്പ് അറിവിലേക്കായി കാസർഗോഡ് ജില്ലാ ജനറൽ വിഭാഗം സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർക്ക് ബന്ധപ്പെട്ട കുടിശ്ശികക്കാർ അയച്ചുകൊടുക്കേണ്ടതുമാണ്. കാസർഗോഡ് ജില്ലയ്ക്കുള്ള എല്ലാ വായ്പ സഹകരണ സ്ഥാപനങ്ങളും വായ്പാ കുടിശ്ശികക്കാരായ അടയ്ക്കാ കർഷകർ ഉൾപ്പെടെയുള്ള അർഹതപ്പെട്ടവർക്ക് ടി ഒറ്റതവണ തീർപ്പാക്ക ൽ പദ്ധതിയുടെ ആനുകൂല്യം നൽകാൻ പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്.

പരാതികളുണ്ടായാൽ അവ അപ്പോഴപ്പോൾ പരിഹരിച്ച് ടി പദ്ധതിയുടെ ആനുകൂല്യം എല്ലാ വായ്പാ കുടിശികക്കാർക്കും ശരിയായ രീതിയിൽ കിട്ടുന്നുണ്ടെന്നും കാസർഗോഡ് ജില്ലാ ജനറൽ വിഭാഗം സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ ഉറപ്പു വരുത്തേണ്ടതും ടി പദ്ധതിയുടെ പ്രതിമാസ അവലോകന റിപ്പോർട്ട് ഈ ആഫീസിൽ കൃത്യമായി അയച്ചുതരേണ്ടതുമാണ്. പ്രസ്തുത കാലയളയിൽ ടി കുടിശ്ശികക്കാരായ അംഗങ്ങളുടെ എല്ലാ ജപ്തി നടപടികളും കാസർഗോഡ് ജില്ലയിലെ എല്ലാ വായ്പാ സഹകരണസംഘങ്ങളും നിറുത്തിവയ്ക്കേണ്ടതാണ്.

ജെ. രവീ ന്ദ്ര രാജു
സഹകരണസംഘം രജിസ് ട്രാർ ഇൻ.ചാർജ്ജ്
കേരള സർക്കാർ

നമ്പർ : 9868/ബി3/2001/സഹ. സഹകരണ (ബി) വകുപ്പ്
തിരുവനന്തപുരം, തീയതി 23–05–2003

ഗവൺമെന്റ് സെക്രട്ടറി
സഹകരണ സംഘം രജിസ്ട്രാർ
തിരുവനന്തപുരം

സർ,

വിഷയം : **സഹകരണം – പ്രാഥമിക ഭവന നിർമ്മാണ സഹകരണ സംഘങ്ങളെ സ്വർണ്ണപണയ വായ്പ ഇടപാട് നടത്താൻ അനുവദിക്കണമെന്ന അപേക്ഷ സംബന്ധിച്ച്**

സൂചന : 1. കേരള സംസ്ഥാന സഹകരണ ഭവന നിർമ്മാണ ഫെഡറേഷന്റെ പ്രസിഡന്റിന്റെ 27–10–2001 ലെ 7120/ജി. എ./01 നമ്പറിലുള്ള നിവേദനം
2. താങ്കളുടെ 31–01–2002 ലെ എച്ചു.വി1. /47209/01 നമ്പറിലുള്ള കത്ത്

സൂചനയിലേക്ക് താങ്കളുടെ ശ്രദ്ധ ക്ഷണിക്കുന്നു. സൂചന രണ്ടിലെ കത്തിൽ ശുപാർശ ചെയ്തതനുസരിച്ച് പ്രാഥമിക ഭവന നിർമ്മാണ സഹകരണ സംഘങ്ങളിലെ സ്വർണ്ണ പണയ വായ്പ ഇടപാട് നടത്താൻ അനുവദിക്കുന്നതാണെന്ന് അറിയിക്കുന്നു.

വിശ്വസ്തതയോടെ
പി. രേണുകാ ദേവി
അണ്ടർ സെക്രട്ടറി
സെക്രട്ടറിക്കു വേണ്ടി

നമ്പർ എച്ച്. വി (1) 21198/2003 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 21.06.2003

സഹകരണ സംഘം രജിസ്ട്രാർ,
തിരുവനന്തപുരം

എല്ലാ ജോയിന്റ് രജിസ്ട്രാർമാർക്കും (ജനറൽ)

സർ,

വിഷയം : **പ്രാഥമിക ഭവന നിർമ്മാണ സഹകരണ സംഘങ്ങളെ സ്വർണ്ണ പണയ വായ്പാ ഇടപാട് നടത്താൻ അനുവദിക്കണമെന്ന് അപേക്ഷ സംബന്ധിച്ച്**

സൂചന : **23-05-2003 ലെ 9683/ബി3/2001/സഹ. നമ്പർ സർക്കാർ കത്ത്**

സൂചന പ്രകാരമുള്ള സർക്കാർ കത്തിന്റെ പകർപ്പ് ഇതോടൊന്നിച്ചയയ്ക്കുന്നു. അംഗീകരിക്കപ്പെട്ട സ്വർണ്ണപണയ വായ്പാ ഉപനിബന്ധനകൾക്കനുസൃതമായി പ്രൈമറി ഹൗസിങ് സഹകരണ സംഘങ്ങളെ സ്വർണ്ണപണയ വായ്പാ ഇടപാടു നടത്തുവാൻ അനുവദിക്കുന്നതാണെന്ന് അറിയിക്കുന്നു. ഈ കത്തിലെ നിർദ്ദേശം എല്ലാ സർക്കാർ പ്രൈമറി ഹൗസിങ് സഹകരണ സംഘങ്ങളുടെയും ശ്രദ്ധയിൽപ്പെടുത്തേണ്ടതാണ്.

താങ്കളുടെ വിശ്വസ്തൻ
സഹകരണ സംഘം രജിസ്ട്രാർക്കു വേണ്ടി

നമ്പർ സി.ബി.(1) 14796/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 1.07.2003

സർക്കുലർ നമ്പർ 35/2003

വിഷയം : **സഹകരണ വകുപ്പ്. പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി (വൺ ടൈം സെറ്റിൽമെന്റ്) വീണ്ടും നടപ്പിലാക്കുന്നത് സംബന്ധിച്ച് നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.**

സൂചന: **നബാർഡിന്റെ എൻ.ബി. പി.സി.സി. (ഒ.പി.ആർ.) 308.ബി/എ.131 (റിവൈസ്ഡ് ഒ.റ്റി.എസ്.2000.2004 തീയതി 31.5.2003 നമ്പർ കത്ത് (സർക്കുലർ നമ്പർ.123/പി.സി.ഡി/29/2003)**

പ്രാഥമിക വായ്പാ സഹകരണസംഘങ്ങളിൽ മുമ്പ് നടപ്പിലാക്കിയ ഒറ്റത്തവണ തീർപ്പാക്കൽ (വൺടൈം സെറ്റിൽമെന്റ്) പദ്ധതി മൂലം, സംഘങ്ങളുടെ കുടിശിക തുകയിൽ നല്ലൊരു ശതമാനം ഈടാക്കാൻ കഴിയുകയും, സംഘാംഗങ്ങൾക്ക് കാര്യമായ ആശ്വാസം ലഭിക്കുകയും ചെയ്തിട്ടുണ്ട്. സഹകരണമേഖലയിൽ നടപ്പിലാക്കിയ ഈ പദ്ധതി കിട്ടാക്കടം പിരിച്ചെടുക്കുന്നതിന് സഹായകരമായിരുന്നു എന്ന് കണ്ടതിന്റെ അടിസ്ഥാനത്തിൽ സംസ്ഥാന സഹകരണബാങ്ക്, ജില്ലാ സഹകരണബാങ്ക് എന്നിവയിൽ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി വീണ്ടും ഒരു തവണ കൂടി നടപ്പിലാക്കുന്നതിന് നബാർഡ് സൂചന സർക്കുലർ പ്രകാരം മാർഗ്ഗനിർദ്ദേശം നൽകിയിട്ടുണ്ട്. ഇപ്രകാരം സംസ്ഥാന ജില്ലാ സഹകരണ ബാങ്കുകളിൽ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി നടപ്പിലാക്കുന്നതിന് 23.6.2003 ന് കൂടിയ സെൻട്രൽ ബാങ്ക് കോൺഫറൻസിൽ തീരുമാനിക്കുകയും ചെയ്തിട്ടുണ്ട്. അതിന്റെ അടിസ്ഥാനത്തിൽ പ്രാഥമിക വായ്പ

സംഘങ്ങളിലും ഒരിക്കൽകൂടി ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി നടപ്പിലാക്കാൻ താഴെ പറയുന്ന മാർഗ്ഗ നിർദ്ദേശങ്ങൾക്കു വിധേയമായി തീരുമാനിച്ചിട്ടുണ്ട്.

1. പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളിൽ 31.3.2001 ൽ കുടിശ്ശികയായി നിൽക്കുന്ന വായ്പകൾ, അംഗങ്ങൾക്ക് 31.12.2003 നകം ഈ പദ്ധതിപ്രകാരം അടച്ചുതീർക്കാവുന്നതാണ്. അപ്രകാരം വായ്പാ കണക്ക് അവസാനിപ്പിക്കുന്നതിന് പിഴപലിശ, കൂട്ടുപലിശ മറ്റ് അനാമത്ത് ചെലവുകൾ എന്നിവ ഒഴിവാക്കി, 31.3.2001ലെ ബാക്കി നിൽപ്പ് വായ്പാതുകയും പലിശയും ചേർന്ന സെറ്റിൽമെന്റ് തുകയ്ക്ക് 12% (പന്ത്രണ്ട് ശതമാനം) പലിശ നൽകിയാൽ മതിയാകുന്നതാണ്. എന്നാൽ എന്തെങ്കിലും കാരണവശാൽ ടി തീയതിക്കകം ഒന്നിച്ച് തുക അടയ്ക്കാൻ സാധിക്കാതെ വന്നാൽ 31..3.2001 ലെ ബാക്കിനിൽപ്പ് തുകയുടെ (മുതലും പലിശയും ചേർന്ന തുക) 10 ശതമാനം അഡ്വാൻസായി 31.12.2003 ന് മുമ്പ് അടയ്ക്കാവുന്നതും ശേഷിക്കുന്ന തുക തുടർന്ന് 10(പത്ത്) പ്രതിമാസ തവണകളായി 31.3.2001 മുതൽ 12% (പന്തണ്ട് ശതമാനം) പലിശയോടുകൂടി തന്നെ അടച്ചു തീർക്കാവുന്നതാണ്. ഒരു തവണ അടച്ചശേഷം പിന്നീടുള്ള ഗഡുക്കൾ മുടക്കം വരുത്തുന്ന പക്ഷം പദ്ധതിയുടെ ആനുകൂല്യം നഷ്ടപ്പെടുന്നതാണ്.

2. കുടിശിക ഈടാക്കുന്നതിന് ആർബിട്രേഷൻ കേ സ് ഫയൽ ചെയ്തിട്ടുള്ള കേസുകളിൽ ഇതിനകം വിധിയായിട്ടില്ലെങ്കിൽ ടി പദ്ധതിയുടെ ആനുകൂല്യം നൽകി വായ്പാ കണക്ക് അവസാനിപ്പിക്കാവുന്നതും ടി. വിവരം ആർബിട്രേറ്ററെ അറിയിക്കേണ്ടതും ആണ്.

3. ആർബിട്രേഷൻ കേസുകളിൽ അവാർഡ് ലഭിക്കുകയും എന്നാൽ എക്സിക്യൂഷൻ പെറ്റീഷൻ ഇതുവരെയും ഫയൽ ചെയ്യാതിരിക്കുകയും ആണെങ്കിൽ ഈ പദ്ധതി പ്രകാരം തുക അടച്ച് വായ്പാ കണക്ക് അവസാനിപ്പിക്കാവുന്നതാണ്.

4. എക്സിക്യൂഷൻ സ്റ്റേജിൽ ഇരിക്കുന്ന കേസുകളിലും ഈ പദ്ധതി പ്രകാരം ആനുകൂല്യം നൽകാവുന്നതും, അപ്രകാരം വായ്പാ കണക്ക് അവസാനിപ്പിച്ചു കഴിഞ്ഞാൽ സെയിൽ ഓഫീസറെ രേഖാമൂലം അറിയിക്കേണ്ടതുമാണ്.

5. ഈ പദ്ധതി സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്കുകൾ, ഹൗസിംഗ് സഹകരണ സംഘങ്ങൾ തുടങ്ങി എല്ലാ വിഭാഗത്തിലുമുള്ള പ്രാഥമിക വായ്പാ സംഘങ്ങൾക്കും ബാധകമായിരിക്കുന്നതാണ്.

6. ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയെപ്പറ്റി സംഘം/ബാങ്ക് അംഗങ്ങൾക്കിടയിൽ വ്യാപകമായ പ്രചാരണം നൽകണമെന്ന് നിർദ്ദേശിക്കുന്നു.

7. ജോയിന്റ് രജിസ്ട്രാർമാർ (ജനറൽ)/അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) സംഘം പ്രതിനിധികളുടെ യോഗങ്ങൾ വിളിച്ചു ചേർത്ത്, ഇതിന് ആവശ്യമായ മാർഗ്ഗ നിർദ്ദേശം നൽകേണ്ടതും ഇടയ്ക്കിടെ വിലയിരുത്തേണ്ടതുമാണ്.

കെ. കേശവൻ,
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ.ചാർജ്ജ്

നമ്പർ സി.ബി. (4) 42360/01

സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 17.07.2003

സർക്കുലർ നമ്പർ 39/2003

വിഷയം : **സഹകരണ വകുപ്പ്. സഹകരണ അർബൻ ബാങ്കുകളിൽ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി (വൺ ടൈം സെറ്റിൽമെന്റ്) നടപ്പിലാക്കുന്നതിനുള്ള**

നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്

സൂചന : **1. ഭാരതീയ റിസർവ്വ് ബാങ്കിന്റെ 12.2.2003 ലെ ബി.പി.ഡി.1298/09/140/00 (ഒ.റ്റി.എസ്/2002.2003 നമ്പർ കത്ത്)**

2. ഭാരതിയ റിസർവ്വ് ബാങ്കിന്റെ 3.6.2003 ലെ ബി.പി.ഡി. 04/09/140/00 (ഒ.റ്റി.എസ്/ 2002.2003 നമ്പർ കത്ത്)

സഹകരണ സംഘം രജിസ്ട്രാറുടെ നിയന്ത്രണത്തിൽ സംസ്ഥാനത്ത് പ്രവർത്തിക്കുന്ന പ്രാഥമിക സഹകരണ അർബൻ ബാങ്കുകളിൽ മുമ്പ് നടത്തിയ ഒറ്റ തവണ തീർപ്പാക്കൽ പദ്ധതി (വൺ ടൈം സെറ്റിൽമെന്റ്) വീണ്ടും നടപ്പിലാക്കുന്നതിന് സൂചന (2) പ്രകാരം റിസർവ്വ് ബാങ്ക് നിർദ്ദേശം നൽകിയിട്ടുണ്ട്. 2002.ാംമാണ്ടിൽ ഇപ്രകാരം ഒത്തു തീർപ്പു പദ്ധതിയിലൂടെ സംസ്ഥാനത്ത് പ്രവർത്തിക്കുന്ന സഹകരണ അർബൻ ബാങ്കുകൾക്ക് സംശയാസ്പദവും കിട്ടാക്കടമായി തീർത്തതുമായ നിഷ്ക്രിയ ആസ്തികളുടെ (എൻ.പി.എ.) ശതമാനം ഗണ്യമായ രീതിയിൽ താഴ്ത്തിക്കൊണ്ടു വരാൻ കഴിഞ്ഞെങ്കിലും, ഭാരതീയ റിസർവ് ബാങ്ക് ഇപ്പോൾ നിഷ്ക്കർഷിച്ചിരിക്കുന്ന തോതിൽ നി ഷ്ക്രിയ ആസ്തി താഴ്ത്തികൊണ്ടു വരാനും നിലനിർത്താനും കഴിയാത്ത സാഹചര്യത്തിൽ ഒറ്റ തവണ തീർപ്പാക്കൽ പദ്ധതി ദീർഘിപ്പിക്കണമെന്ന ആവശ്യം അർബൻ സഹകരണ ബാങ്കുകളുടെ ഭാഗത്തു നിന്ന് ഉയർന്നതിന്റെ അടിസ്ഥാനത്തിൽ താഴെ പറയുന്ന മാർഗ്ഗ നിർദ്ദേശങ്ങൾക്ക് വിധേയമായി പ്രാഥമിക സഹകരണ അർബൻ ബാങ്കുകളിൽ ഒറ്റ തവണ തീർപ്പാക്കൽ പദ്ധതി വീണ്ടും നടപ്പിലാക്കുവാൻ നിർദ്ദേശിക്കുന്നു.

1. 31.3.2001 വരെയുള്ള കാലാവധി കഴിഞ്ഞതും തവണ കുടിശ്ശിക ആയതും സംശയാസ്പദവും കി ട്ടാക്കടവും ഉൾപ്പെടെയുള്ള എല്ലാതരം വായ്പകൾക്കും ഈ പദ്ധതി ബാധകമാണ്.

2. ഈ പദ്ധതി പ്രകാരം 31.03.2001 ൽ കുടിശ്ശികയായി നിൽക്കുന്ന മുഴുവൻ തുകയും 31.12.2003 നകം അടച്ചു തീർക്കാവുന്നതാണ്. അപ്രകാരം വായ്പ കണക്ക് അവസാനിപ്പിക്കുന്നതിന് പിഴ പലിശ, കൂട്ടുപലിശ, മറ്റു അനാമത്ത് ചെലവുകൾ എന്നിവ ഒഴിവാക്കി 31.03.2001 ലെ ബാക്കി നിൽപ്പ് വായ്പാതുകയും പലിശയും ചേർന്ന സെറ്റിൽമെന്റ് തുകയ്ക്ക് 12% മോ നിലവിലുള്ള നിരക്കോ ഏതാണ് കുറവ് ആ നിരക്കിൽ പലിശ നൽകിയാൽ മതിയാകുന്നതാണ്.

3. ഈ പദ്ധതി പ്രകാരം ഒത്തു തീർപ്പാകുന്ന തുക, മൊത്തമായിട്ടാണ് അടയ്ക്കേണ്ടത്. എന്നാൽ ഏതെങ്കിലും കാരണവശാൽ ടി തിയതിക്കകം അടച്ചു തീർക്കാൻ കഴിയാതെ വന്നാൽ 31.03.2001 ലെ ബാക്കി നിൽപ്പു തുകയുടെ (മുതലും പലിശയും ചേർന്ന തുക) 10% അഡ്വാൻസായി 31.12.2003 ന് മുമ്പ് അടയ്ക്കാവുന്നതും ബാക്കി തുക 10 പ്രതിമാസ തവണകളായി 31.3.2001 മുതൽക്ക് 12% പലിശയോടുകൂടി തന്നെ അടച്ചു തീർക്കാവുന്നതാണ്. ഒരു തവണ അടച്ച ശേഷം പിന്നീടുള്ള ഗഡുക്കൾ മുട ക്കംവരുത്തുന്ന പക്ഷം ഈ പദ്ധതിയുടെ ആനുകൂല്യം നഷ്ടപ്പെടുന്നതാണ്.

4. ആർബിട്രേഷൻ കേസുകളിൽ അവാർഡ് ലഭിക്കുകയും എന്നാൽ എക്സിക്യൂഷൻ പെറ്റിഷൻ ഇതുവരെയും ഫയൽ ചെയ്യാതെയിരിക്കുകയാണെങ്കിൽ ഈ പദ്ധതി പ്രകാരം ഒരു ഒത്തുതീർപ്പ് വ്യവസ്ഥ നടപ്പിലാക്കാൻ അതാതു ജില്ലയിലെ ജോയിന്റ് രജിസ്ട്രാർമാർക്ക് അപേക്ഷ നൽകുകയും, ജോയിന്റ് രജിസ്ട്രാറുടെ ഉത്തരവിന്റെ അടിസ്ഥാനത്തിൽ ഈ പദ്ധതി പ്രകാരം തുക അടച്ച് വായ്പാ കണക്ക് അവസാനിപ്പിക്കാവുന്നതാണ്.

5. എക്സിക്യൂഷൻ സ്റ്റേജിൽ ഇരിക്കുന്ന കേസുകളിലും ഈ പദ്ധതി പ്രകാരമുള്ള ആനുകൂല്യം നൽകാവുന്നതും, ആയതിന് അതാത് ജില്ലയിലെ ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാർമാർക്ക് അപേക്ഷ നൽകി ജോയിന്റ് രജിസ്ട്രാർമാരുടെ ഉത്തരവിന്റെ അടിസ്ഥാനത്തിൽ ഈ പദ്ധതി പ്രകാരം തുക അടച്ച് വായ്പാ കണക്ക് അവസാനിപ്പിക്കാവുന്നതാണ്.

6. ഈ പദ്ധതിയിലൂടെ നൽകുന്ന ആനുകൂല്യം സർക്കാരെ ഭാരതീയ റിസർവ്വ് ബാങ്കോ നികത്തുന്നതല്ല.

7. ബാങ്കിന് ലഭിക്കുന്ന അപേക്ഷകൾ യാതൊരു തരത്തിലുള്ള വേർതിരിവോ, വിവേചനമോ ഇല്ലാതെ ഭരണസമിതി പരിശോധിച്ച് മാർഗ്ഗനിർദ്ദേശത്തിന് വിധേയമായി തീരുമാനിക്കേണ്ടതാണ്.

8. ഈ പദ്ധതിയുടെ കീഴിൽ ഇനി പറയുന്ന തരത്തിലുള്ള വായ്പ ഉൾപ്പെടുത്താൻ പാടുള്ളതല്ല..

എ) മനപൂർവ്വമായി വീഴ്ച വരുത്തുന്ന വായ്പകൾ

ബി) കൃത്രിമ രേഖ ചമച്ച് എടുത്തിട്ടുണ്ടെന്ന് കണ്ടെത്തിയ വായ്പകൾ

സി) ശമ്പളത്തിൽ നിന്ന് ഈടാക്കാൻ ഉഭയകക്ഷി സമ്മതം വ്യവസ്ഥ ചെയ്ത വായ്പകൾ

ഡി) ബാങ്കിന്റെ ഭരണസമിതി അംഗങ്ങൾക്കോ, അവരുടെ ഉറപ്പിൻമേലോ പ്രത്യേക താൽപര്യപ്രകാരമോ മറ്റ് സ്ഥാപനങ്ങൾക്കോ നൽകിയിട്ടുള്ള വായ്പകൾ

ഇ) സർക്കാർ ഗ്യാരണ്ടിയുള്ള വായ്പകൾ

എഫ്) സർക്കാരിന്റെ, സർക്കാർ സ്ഥാപനങ്ങൾക്കോ നൽകിയ വായ്പകൾ

(ജി) സർക്കാർ പദ്ധതിയിൽ ഉൾപ്പെട്ട വായ്പകൾ

ഈ പദ്ധതി, എല്ലാ ജനറൽ ജോയിന്റ് രജിസ്ട്രാർമാരും പ്രതിമാസം അവലോകനം ചെയ്ത് പുരോഗതി വിലയിരുത്തേണ്ടതും, ഇതിന്റെ ആനുകൂല്യം വായ്പകൾ പരമാവധി പ്രയോജനപ്പെടുത്തുന്നതിന് പ്രയത്നിക്കേണ്ടതുമാണ്. ഈ പദ്ധതി നടത്തിപ്പിലൂടെ എല്ലാ സഹകരണ അർബൻ ബാങ്കുകളുടെയും നിഷ്ക്രിയ ആസ്തി പരമാവധി കുറച്ച് ഭാരതീയ റിസർവ്വ് ബാങ്ക് നിഷ്കർഷിക്കുന്ന തരത്തിൽ എത്തിക്കാൻ എല്ലാ ബാങ്കുകളും പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്. എല്ലാ ബാങ്കുകളും ഇപ്രകാരം ഒത്തുതീർപ്പാക്കിയ വായ്പകളുടെ വിശദവിവരം അതാതു ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരെ ഓരോ മാസവും അറിയിക്കേണ്ടതും, ആയത് ക്രോഡീകരിച്ച ജില്ലാ തല റിപ്പോർട്ട് ഓരോ മാസവും 5ാം തീയതിക്കു മുമ്പ് രജിസ്ട്രാരെ അറിയിക്കേണ്ടതുമാണ്. ഈ പദ്ധതി നടത്തിപ്പ് മനപ്പൂർവ്വം നടപ്പിലാക്കാൻ വിയോജിപ്പ് കാണിക്കുന്ന ബാങ്കുകൾക്ക് എതിരെ കേരള സഹകരണ നിയമത്തിൽ അനുശാസിക്കുന്ന നടപടികൾ സ്വീകരിക്കുന്നതുമാണ്.

കെ. കേശവൻ

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ സി.ബി.(1)14796/03 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,

തിരുവനന്തപുരം, തീയതി 17.07.2003

സർക്കുലർ നമ്പർ 40/2003

വിഷയം : **ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി നടപ്പിലാക്കുന്നതിൽ വീഴ്ച**

വരുത്തുന്നതിനെതിരെ നടപടികൾ സ്വീകരിക്കുന്നത് സംബന്ധിച്ച്

സൂചന : **1. രജിസ്ട്രാരുടെ 35/2001 നമ്പർ സർക്കുലർ**
2. രജിസ്ട്രാരുടെ 35/2003 നമ്പർ സർക്കുലർ
3. രജിസ്ട്രാരുടെ 49/2002 നമ്പർ സർക്കുലർ

സൂചന സർക്കുലറുകൾ പ്രകാരം ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി (വൺ ടൈം സെറ്റിൽമെന്റ് പദ്ധതി)പ്രാഥമിക സർവ്വീസ് സഹകരണ ബാങ്കുകൾ, പ്രാഥമിക സഹകരണ കാർഷിക വികസന ബാങ്കുകൾ, അർബൻ ബാങ്കുകൾ, ഹൗസിംഗ് സഹകരണ സംഘങ്ങൾ, മറ്റു പ്രാഥമിക വായ്പാ സഹകരണസംഘങ്ങൾ എന്നിവയിൽ നടപ്പിലാക്കുന്നതിന് നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിച്ചിട്ടുണ്ട്. എന്നാൽ പല വായ്പാ സഹകരണസംഘങ്ങളും ടി പദ്ധതി നടപ്പാക്കാൻ വിമുഖത കാണിക്കുന്നതായി ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ട്. കർഷകരുൾപ്പെടെയുള്ള വായ്പക്കാർക്ക് ആശ്വാസം നൽകുന്നതോടൊപ്പം സഹകരണസംഘങ്ങളുടെ കുടിശ്ശിക കുറയ്ക്കുവാനും ലക്ഷ്യമിട്ട് നടപ്പിലാക്കുന്ന ഈ പദ്ധതി എല്ലാ വായ്പാ സംഘങ്ങളിലും നിർബന്ധമായും നടപ്പിലാക്കേണ്ടതാണ്. ആയതിനാൽ ജനറൽ വിഭാഗം അസിസ്റ്റന്റ് രജിസ്ട്രാർമാർ പ്രാഥമിക സഹകരണ കാർഷിക വികസന ബാങ്കുകളിലെ അസിസ്റ്റന്റ് രജിസ്ട്രാർമാർ/ വാല്യുവേഷൻ ആഫീസർമാർ എന്നിവർ അവരവരുടെ ഭരണ നിയന്ത്രണത്തിലുള്ള സഹകരണസംഘങ്ങൾ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി പ്രകാരമുള്ള ആനുകൂല്യം വായ്പക്കാർ നൽകുന്നു എന്ന് ഉറപ്പ് വരുത്തേണ്ടതാണ്. ഏതെങ്കിലും സഹകരണസംഘങ്ങൾ ഈ ആനുകൂല്യം നൽകുന്നില്ല എന്നു കണ്ടാൽ അക്കാര്യം ബന്ധപ്പെട്ട യൂണിറ്റ് ഇൻസ്പെക്ടർമാർ ജോയിന്റ് രജിസ്ട്രാറുടെ ശ്രദ്ധയിൽ കൊണ്ടുവരികയും ജോയിന്റ് രജിസ്ട്രാർമാർ സംഘങ്ങൾക്കെതിരെ രജിസ്ട്രാറുടെ നിർദ്ദേശങ്ങൾ അവഗണിച്ചതിന് നിയമാനുസൃതമായ നടപടികൾ കൈക്കൊള്ളുകയും ചെയ്യേണ്ടതാണ്.

അതോടൊപ്പം ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ ആനുകൂല്യം നൽകുന്നില്ലെന്ന് കാണിച്ച് ലഭിക്കുന്ന പരാതികളിൽ മേൽ അടിയന്തിര പ്രാധാന്യം നൽകി അന്വേഷണം നടത്തി, പരാതിയിൽ കഴമ്പുണ്ടെന്നും, പരിഗണനാർഹമാണെന്നും കണ്ടെത്തിയാൽ ആനുകൂല്യം നൽകാൻ ബന്ധപ്പെട്ട സംഘത്തിന് നിർദ്ദേശം നൽകുകയും, നിർദ്ദേശം അവഗണിക്കുകയാണെങ്കിൽ സംഘത്തിനെതിരെ നിയമാനുസൃതമായ നടപടികൾ കൈക്കൊള്ളേണ്ടതുമാണ്.

ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി പ്രാബല്യത്തിലുള്ള കാലയളവ് മുഴുവൻ സംഘത്തിൽ നടത്തുന്ന പരിശോധനകളിൽ ഇക്കാര്യം കൂടി ഉൾപ്പെടുത്തേണ്ടതും, ആയത് പ്രതിമാസ സമ്മേളനങ്ങളിൽ അവലോകനം നടത്തേണ്ടതുമാണ്.

പരിശോധന നടത്തുന്ന സംഘങ്ങളിൽ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ ആനുകൂല്യം നൽകാതിരിക്കുകയും എന്നാൽ ആയത് ബന്ധപ്പെട്ട മേലുദ്യോഗസ്ഥൻമാർക്ക് യഥാസമയം റിപ്പോർട്ട് ചെയ്യാതിരിക്കുകയും, നടപടികൾ സ്വീകരിക്കാതിരിക്കുകയും ചെയ്യുന്ന ഉദ്യോഗസ്ഥൻമാർക്കെതിരെ ശിക്ഷണ നടപടികൾ സ്വീകരിക്കുന്നതാണെന്നും, അറിയിക്കുന്നു.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ സി.ജി.(1) 5861/02 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 17.07.2003

സർക്കുലർ നമ്പർ 41/2003

വിഷയം : **സഹകരണ വകുപ്പ് പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളിൽ നിന്നും അംഗങ്ങൾക്ക് നൽകുന്ന വിവിധ ഇനം വായ്പകൾക്കും, ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾക്ക് നൽകുന്ന വായ്പകൾക്കുമുള്ള ഓഹരി അനുപാതം ഏകീകരിച്ചുകൊണ്ടുള്ള നിർദ്ദേശങ്ങൾ നടപ്പിലാക്കുന്നതിലുള്ള വീഴ്ച തുടർ നടപടി സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 3.1.2000 ലെ 3/2000 നമ്പർ സർക്കുലർ**
2. സഹകരണസംഘം രജിസ്ട്രാറുടെ 2.4.2002 ലെ 11/2002 -ാം നമ്പർ സർക്കുലർ

പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സ്ഥാപനങ്ങൾ, ഫാർമേഴ്സ് സർവ്വീസ് സഹകരണ ബാങ്കുകൾ , ബാങ്കിംഗ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരാത്ത കാർഷികേതര വായ്പാ സഹകരണസംഘങ്ങൾ എന്നിവയിൽ നിന്നും അംഗങ്ങൾക്ക് നൽകാവുന്ന വിവിധ ഇനം വായ്പകളുടെ പരിധിയും, ഓഹരി അനുപാതവും സൂചന(1) ലെ സർക്കുലർ മുഖേന നിശ്ചയിച്ചിട്ടുണ്ട്. പ്രാഥമിക സഹകരണസംഘങ്ങൾ മുഖേന അംഗങ്ങൾക്ക് വിവിധ ആവശ്യങ്ങൾക്ക് വായ്പ നൽകുന്നതിന് സൂചന ഒന്നിലെ സർക്കുലർ പ്രകാരം നിശ്ചയിച്ചിട്ടുള്ള ഓഹരി അനുപാതം, ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും പ്രസ്തുത ആവശ്യങ്ങൾക്കായി പ്രാഥമിക സഹകരണ സംഘങ്ങളെടുക്കുന്ന വായ്പകൾക്കും ബാധകമാക്കിക്കൊണ്ട് സൂചന (2) ലെ സർക്കുലർ മുഖേന നിർദ്ദേശം പുറപ്പെടുവിച്ചിരിക്കുന്നു. പ്രസ്തുത സർക്കുലർ നിർദ്ദേശങ്ങൾ പ്രാഥമിക സഹകരണസംഘങ്ങളും ജില്ലാ സഹകരണ ബാങ്കുകളും കർശനമായി പാലിക്കുന്നില്ല എന്ന് ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുകയാണ്. ആയത് ടി സർക്കുലർ നിർദ്ദേശങ്ങളുടെ ഉദ്ദേശ ലക്ഷ്യങ്ങളെ ബാധിക്കുന്നതാകയാൽ ആയത് തടയേണ്ടതാണെന്ന് ബോധ്യമായതിനാൽ താഴെ പറയുംപ്രകാരമുള്ള നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1) സഹകരണ വകുപ്പിലെ താലൂക്ക് അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) ആഫീസിൽ പ്രവർത്തിയെടുക്കുന്ന യൂണിറ്റ് ഇൻസ്പെക്ടർമാർ അവരവരുടെ യൂണിറ്റിലെ ഒരോ പ്രാഥമിക വായ്പാ സംഘങ്ങളിലും 20.8.2003 നകം പരിശോധന നടത്തി സഹകരണ സ്ഥാപനങ്ങൾ ടി സർക്കുല ർ നിർദ്ദേശങ്ങൾ കർശനമായി പാലിക്കുന്നുണ്ടെന്ന് ഉറപ്പ് വരുത്തേണ്ടതുമാണ് പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ സർക്കുലർ നിർദ്ദേശങ്ങൾ യഥാവിധി പാലിക്കുന്നില്ല എന്നും നിർദ്ദേശത്തിന് വിരുദ്ധമായി ഓഹരി ഈടാക്കി വരുന്നതായും കാണുന്ന പക്ഷം താഴെ പറയുംപ്രകാരമുള്ള ഒരു സ്റ്റേറ്റ്മെന്റ് സഹിതം അസിസ്റ്റന്റ് രജിസ്ട്രാർക്ക് റിപ്പോർട്ട് നൽകേണ്ടതാണ്.

1. സംഘത്തിന്റെ പേര്, നമ്പർ :
2. വായ്പയുടെ വിവരം, വായ്പാ തുക :

3. ഈടാക്കിയ ഓഹരി തുക :

4. ഓഹരി വായ്പാ അനുപാതം :

2) ഇപ്രകാരം യൂണിറ്റ് ഇൻസ്പെക്ടർമാർ സമർപ്പിക്കുന്ന സ്റ്റേറ്റ്മെന്റ് സഹിതമുള്ള റിപ്പോർട്ട് അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ ക്രോഡീകരിച്ച് ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർമാർക്ക് (ജനറൽ) 31.9.2003 നകം സമർപ്പിക്കേണ്ടതും, ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർമാർ ടി റിപ്പോർട്ട് പരിശോധിച്ച് വീഴ്ച വരുത്തിയിട്ടുള്ള സഹകരണ സ്ഥാപനങ്ങൾക്കെതിരെ സഹകരണ നിയമം/ചട്ടം.ൽ അനുശാസിക്കും പ്രകാരം കർശന നടപടികൾ കൈക്കൊള്ളേണ്ടതുമാണ്. സർക്കുലർ നിർദ്ദേശം നടപ്പിലാക്കിയതിന്റെ വിവരം, വീഴ്ചക്കാർക്കെതിരെ കൈക്കൊണ്ട നടപടിയുടെ വിവരം എന്നിവയടങ്ങുന്ന ജില്ലാതല റിപ്പോർട്ട് സഹകരണസംഘം രജിസ്ട്രാർക്ക് 05.09.2003 നകം സമർപ്പിക്കേണ്ടതാണ്.

3) ജില്ലാ സഹകരണ ബാങ്കുകളിൽ നിന്നും പ്രാഥമിക സഹകരണ സ്ഥാപനങ്ങൾ എടുക്കുന്ന വായ്പകളിൽ ടി സർക്കുലർ നിർദ്ദേശങ്ങൾ കർശനമായി പാലിക്കുന്നുണ്ടെന്ന് ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) പരിശോധിച്ച് ഉറപ്പു വരുത്തേണ്ടതാണ്. ജില്ലാ സഹകരണ ബാങ്കുകൾ സർക്കുലർ നിർദ്ദേശങ്ങൾ പാലിക്കുന്നില്ല എന്നും, നിർദ്ദേശത്തിന് വിരുദ്ധമായി ഓഹരി ഈടാക്കുന്നതായും പരിശോധനയിൽ കണ്ടെത്തുന്ന പക്ഷം, ഖണ്ഡിക 1. ൽ രേഖപ്പെടുത്തിയ തരത്തിലുള്ള ഒരു സ്റ്റേറ്റ്മെന്റ് സഹിതം സഹകരണസംഘം രജിസ്ട്രാർക്ക് റിപ്പോർട്ട് ചെയ്യേണ്ടതാണ്.

ഇത് സംബന്ധിച്ച് അസിസ്റ്റന്റ് രജിസ്ട്രാർമാർ, വാല്യുവേഷൻ ആഫീസർമാർ, ബന്ധപ്പെട്ട യൂണിറ്റ് ഇൻസ്പെക്ടർമാർ എന്നിവരുടെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സ്ഥാപനങ്ങളിൽ രജിസ്ട്രാർ നിർദ്ദേശിച്ചതിൽ കൂടുതൽ ഓഹരികൾ അംഗങ്ങളിൽ നിന്ന് ഈടാക്കുന്നതായി ശ്രദ്ധയിൽപ്പെടുകയും ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥൻമാർ ആദ്യം നൽകിയ റിപ്പോർട്ട്, ശരിയായി പരിശോധിക്കാതെയാണ് നൽകിയതെന്നും ശ്രദ്ധയിൽപ്പെട്ടാൽ, ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥൻമാർക്കെതിരെ ശിക്ഷണ നടപടികൾ സ്വീകരിക്കുന്നതാണെന്നും അറിയിക്കുന്നു.

ടി പരിശോധന പൂർത്തിയാക്കിയ ശേഷം തുടർന്ന് ബന്ധപ്പെട്ട വകുപ്പ് ഉദ്യോഗസ്ഥൻമാർ നടത്തുന്ന പരിശോധനകളിലെല്ലാം തന്നെ ഓഹരി അനുപാതം കൃത്യമായി പാലിക്കുന്നുണ്ടോയെന്ന് പരിശോധിക്കേണ്ടതും ഇക്കാര്യത്തിൽ നിർദ്ദേശങ്ങൾ പാലിക്കുന്നില്ലെങ്കിൽ ആയത് ഉടൻ റിപ്പോർട്ട് ചെയ്യേണ്ടതുമാണ്. ജോയിന്റ് രജിസ്ട്രാർമാരുടെ പ്രതിമാസ ഡി.ഒ. നരേറ്റീവ് റിപ്പോർട്ടിൽ അവസാന ഭാഗത്ത് മറ്റ് കാര്യങ്ങൾ എന്നുള്ളതിൽ ഓഹരി അനുപാതം സംബന്ധിച്ച് എന്ന ശീർഷകത്തിൽ ഇക്കാര്യം പ്രത്യേകം പരാമർശിക്കേണ്ടതാണ്.

സംഘത്തിൽ കണക്കുകൾ പരിശോധിക്കുന്ന ആഡിറ്റർമാർ ആഡിറ്റ് വിഭാഗത്തിലെ മറ്റ് മേലുദ്യോഗസ്ഥന്മാരും സംഘം സന്ദർശന വേളയിൽ മേൽ കാര്യങ്ങൾ പരിശോധിക്കേണ്ടതും സർക്കുലർ നിർദ്ദേശപ്രകാരം ഓഹരി അനുപാതം വായ്പ നൽകുന്നതിൽ പാലിക്കുന്നുണ്ടെന്ന് ഉറപ്പാക്കേണ്ടതുമാണ്.

കെ.കേശവൻ

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സി.ബി.(1) 14796/03 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 08.08.2003

സർക്കുലർ നമ്പർ 48/2003

വിഷയം : **സഹകരണ വകുപ്പ് ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി പ്രാഥമിക സഹകരണസംഘങ്ങൾക്ക് ജില്ലാ ബാങ്കുകൾ/അപ്പക്സ് സ്ഥാപനങ്ങൾ എന്നിവയിൽ നിന്ന് ലഭിക്കുന്ന വായ്പകൾക്ക് നടപ്പിലാക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 35/2001 സർക്കുലറുകളും തുടർന്നുള്ള മാർഗ്ഗ നിർദ്ദേശങ്ങളും**
2. രജിസ്ട്രാറുടെ 25/2003 നമ്പർ സർക്കുലർ

സംസ്ഥാനത്തെ വായ്പാ സഹകരണസംഘങ്ങളിലെ കിട്ടാക്കടം പിരിച്ചെടുക്കുന്നതിലേക്കായി സൂചന (1) പ്രകാരം ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി നടപ്പിലാക്കുകയും, ടി പദ്ധതി പ്രകാരം സംഘങ്ങളുടെ കുടിശിക തുകയിൽ നല്ലൊരു ശതമാനം ഈടാക്കുവാൻ കഴിയുകയും സംഘങ്ങൾക്ക് കാര്യമായ ആശ്വാസം ലഭിക്കുകയും ചെയ്തിട്ടുണ്ട്. സൂചന (2) പ്രകാരം ടി പദ്ധതി വീണ്ടും നടപ്പിലാക്കുന്നതിന് നിർദ്ദേശം നൽകുകയും, ടി പദ്ധതി ഇപ്പോൾ നടപ്പിലാക്കി വരികയും ചെയ്യുന്നുണ്ട്. എന്നാൽ പ്രാഥമിക സഹകരണസംഘങ്ങൾ ജില്ലാ ബാങ്കുകൾ/ മറ്റ് അപ്പക്സ് സ്ഥാപനങ്ങൾ എന്നിവയിൽനിന്ന് എടുത്തിട്ടുള്ള വായ്പകൾക്ക് ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ പ്രയോജനം ലഭിക്കുന്നില്ലായെന്ന് ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ട്. ആയതിനാൽ പ്രാഥമിക സഹകരണസംഘങ്ങൾക്ക് ജില്ലാ ബാങ്കുകൾ, അപ്പക്സ് ബാങ്കുകൾ മുഖേന നൽകിയിട്ടുള്ള വായ്പകൾക്ക് ടി പദ്ധതിക്കായി സഹകരണസംഘം രജിസ്ട്രാർ അംഗീകരിച്ചിട്ടുള്ള വ്യവസ്ഥകളോടു കൂടി ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി നടപ്പിലാക്കാൻ വേണ്ട അനുവാദം ഇതിനാൽ നൽകുന്നു.

ജോയിന്റ് രജിസ്ട്രാർ(ജനറൽ)മാർ സംഘങ്ങൾ/ജില്ലാ ബാങ്കുകൾ തുടങ്ങിയവയ്ക്ക് ആവശ്യമായ മാർഗ്ഗ നിർദേശം നൽകേണ്ടതും പുരോഗതി ഇടയ്ക്കിടെ വിലയിരുത്തേണ്ടതുമാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ സി.ബി.(1) 14796/03 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 30.8.2003

സർക്കുലർ നമ്പർ 51/2003

വിഷയം : **സഹകരണ വകുപ്പ് പ്രാഥമിക വായ്പ സഹകരണസംഘങ്ങൾ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി കാലാവധി ദീർഘിപ്പിക്കുന്നതും നിബന്ധനകളിൽ ഭേദഗതി വരുത്തുന്നതും സംബന്ധിച്ച്**

സൂചന : രജിസ്ട്രാരുടെ 25/2003 നമ്പർ സർക്കുലർ

സഹകരണ വകുപ്പിന്റെ/ഭരണ നിയന്ത്രണത്തിലുള്ള പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളിൽ സൂചന പ്രകാരം ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയിൽ

നടപ്പാക്കുന്നതിന് പുതിയ നിർദ്ദേശം നൽകിയിരുന്നു. എന്നാൽ 18.8.2003 ൽ കൂടിയ ജോയിന്റ് രജിസ്ട്രാരുടെ യോഗത്തിൽ ഉയർന്ന അഭിപ്രായം കണക്കിലെടുത്ത് സഹകാരികളിൽ നിന്നും ലഭിച്ച നിവേദനങ്ങൾ പരിഗണിച്ചും ടി പദ്ധതിയുടെ കാലാവധി ദീർഘിപ്പിക്കുന്നതിനും കൂടുകൂടി ഉദാരമായ സമീപനം സ്വീകരിച്ച് ടി സർക്കുലറിൽ നിർദ്ദേശിച്ച മാർഗ്ഗനിർദ്ദേശങ്ങൾ ചുവടെ പരാമർശിക്കുന്ന ഭേദഗതികൾ വരുത്തുന്നതിനും തീരുമാനിച്ചിട്ടുണ്ട്.

1. പ്രാഥമിക വായ്പ സഹകരണസംഘങ്ങളിൽ 31.3.2002 ൽ കുടിശ്ശികയായി നിൽക്കുന്ന വായ്പകൾ, അംഗങ്ങൾക്ക് 31.3.2004 നകം ഈ പദ്ധതിപ്രകാരം അടച്ചു തീർക്കാവുന്നതാണ്. അപ്രകാരം വായ്പാ കണക്ക് അവസാനിപ്പിക്കുന്നതിന് പിഴ പലിശ, കൂട്ടുപലിശ, മറ്റ് അനാമത്ത് ചെലവുകൾ എന്നിവ ഒഴിവാക്കി 31.3.2002 ലെ ബാക്കി നിൽപ്പ് വായ്പതുകയ്ക്ക് 12% (പന്ത്രണ്ട് ശതമാനം) പലിശ നൽകിയാൽ മതിയാകുന്നതാണ്. എന്നാൽ ഏതെങ്കിലും കാരണവശാൽ ടി തീയതിക്കകം ഒന്നിച്ച് തുക അടയ്ക്കാൻ സാധിക്കാതെ വന്നാൽ 31.3.2002ലെ ബാക്കി നിൽപ്പ് വായ്പതുകയുടെ 10% അഡ്വാൻസായി 31.3.2004 ന് മുമ്പ് അടയ്ക്കാവുന്നതും, ശേഷിക്കുന്ന തുക തുടർന്നുള്ള 10 (പത്ത്) പ്രതിമാസ തവണകളായി 31.3.2002 മുതൽ ഈ തുകയ്ക്ക് 12% പലിശയോടുകൂടി അടച്ച് തീർക്കാവുന്നതുമാണ്. ഒരു തവണ അടച്ച ശേഷം പിന്നീടുള്ള ഗഡുക്കൾ മുടക്കം വരുത്തുന്ന പക്ഷം ഈ പദ്ധതിയുടെ ആനുകൂല്യം നഷ്ടപ്പെടുന്നതാണ്.

2. എക്സിക്യൂഷൻ സ്റ്റേജിൽ ഇരിക്കുന്ന കേസുകളിലും ഈ പദ്ധതിപ്രകാരമുള്ള ആനുകൂല്യം നൽകാവുന്നതും മേൽ ഖണ്ഡികയിൽ പരാമർശിച്ച പ്രകാരം 10% തുക അടച്ച് കഴിഞ്ഞാൽ സെയിൽ ഓഫീസറെ രേഖാമൂലം അറിയിക്കേണ്ടതും ടി ആൾ സെയിൽ നടപടികൾ താൽക്കാലികമായി നിർത്തി വക്കേണ്ടതും ബാക്കി തുക തുടർന്നുള്ള പത്ത് പ്രതിമാസ തവണകളായി അടയ്ക്കാത്ത പക്ഷം, ഈ ആനുകൂല്യം നഷ്ടപ്പെടുന്നതും, തുടർന്ന് നിയമാനുസൃതമുള്ള നടപടികൾ സ്വീകരിക്കാവുന്നതാണ്.

സൂചന (1) സർക്കുലറിലെ നിർദ്ദേശപ്രകാരമുള്ള സെറ്റിൽമെന്റ് തുക കണക്കാക്കി ഇതിനകം തുക അടച്ചവർക്കും 1.4.2003 നും 1.8.2003 നും ഇടയ്ക്ക് വായ്പ കണക്ക് അവാസാനിപ്പിച്ചവർക്കും ഈ ആനുകൂല്യം ബാധകമാക്കേണ്ടതും ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിപ്രകാരം ആണ് തുക അടച്ചതെന്ന് കണക്കാക്കി അടച്ചതുക പുനർനിർണ്ണയം നടത്തി കൂടുതലായി തുക അടച്ചിട്ടുണ്ടെങ്കിൽ അംഗങ്ങൾക്ക് തിരികെ നൽകുകയോ അവരുടെ പേരിൽ മറ്റേതെങ്കിലും വായ്പ ബാങ്കിൽ ഉണ്ടെങ്കിൽ ആയത് വരവ് വയ്ക്കുകയോ ചെയ്യേണ്ടതാണ്. സൂചന സർക്കുലറിലെ മറ്റ് മാർഗ്ഗനിർദ്ദേശങ്ങൾക്ക് യാതൊരു മാറ്റവും ഇല്ലാതെ അതേപടി തുടരുന്നതാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സി.ബി. (2) 40790/2002

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 18.11.2003

സർക്കുലർ നമ്പർ.63/2003

വിഷയം : **സഹകരണവകുപ്പ് സംസ്ഥാനത്തെ സഹകരണസംഘം/ബാങ്കുകൾ നൽകി വരുന്ന കാർഷിക വായ്പകളുടെ പലിശ നിരക്ക് പുതുക്കി**

നിശ്ചയിച്ചത് നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു

സൂചന : **1. ഈ ആഫീസിലെ 22.2.2003ലെ 10/2003.ാം നമ്പർ സർക്കുലർ**
2. 25.10.2003 ലെ സെൻട്രൽ ബാങ്ക് കോൺഫറൻസ് തീരുമാനം

നബാർഡിന്റെ പുനർവായ്പാ പദ്ധതിയിൽ ഹ്രസ്വകാല കാർഷിക വായ്പകൾക്കുള്ള പലിശനിരക്കുകൾ പുതുക്കുന്നതു സംബന്ധിച്ച് 25.10.2003 ൽ കൂടിയ സെൻട്രൽ ബാങ്ക് കോൺഫറൻസ് ചർച്ച ചെയ്ത് പുനർവായ്പാ പദ്ധതി പ്രകാരം നൽകുന്ന 25,000 രൂപ വരെയുള്ള കാർഷിക വായ്പയ്ക്ക് പ്രാഥമിക സംഘങ്ങൾ ഈടാക്കുന്ന പരമാവധി പലിശനിരക്ക് 8.5 ശതമാനമായി കുറവു ചെയ്യുന്നതിന് സൂചന (2) പ്രകാരം തീരുമാനം എടുത്തിട്ടുണ്ട്. അതിനനുസൃതമായി നബാർഡിന്റെ പുനർവായ്പാപദ്ധതിപ്രകാരമുള്ള ഹ്രസ്വകാല കാർഷിക വായ്പ പലിശനിരക്കുകൾ താഴെ പറയുന്നപ്രകാരം പുനർനിർണ്ണയം ചെയ്തിരിക്കുന്നു.

ക്രമ നമ്പർ	വായപാതുക	സംസ്ഥാന സഹകരണ ബാങ്ക്	ജില്ലാ സഹകരണ ബാങ്ക്	പ്രാഥമിക ബാങ്ക്/ സംഘങ്ങൾ
1	25,000/ രൂപ വരെയുള്ള വായ്പകൾ	6.25%	6.75%	8.50%
2	25,000/ രൂപയ്ക്കു മുകളിൽ	6.25%	6.75%	9.00%

പുതിയ പലിശ നിരക്ക് 18.11.2003 മുതൽ പ്രാബല്യം ഉണ്ടായിരിക്കുന്നതാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ. സി.ബി. (2) 32908/2002

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 17–02–2004

സർക്കുലർ നമ്പർ 7/2004

വിഷയം : **സഹകരണ വകുപ്പ് – സംസ്ഥാനത്തെ സഹകരണസംഘം/ബാങ്കുകൾ എന്നിവയിൽ സ്ഥരം നിക്ഷേപങ്ങൾ നടത്തുന്ന മുതിർന്ന പൗരന്മാർക്ക് അധിക പലിശ നൽകുന്നതിന്, പ്രായപരിധി കുറയ്ക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **സഹകരണ സംഘം രജിസ്ട്രാറുടെ 07–12–2001 ലെ 43/01 നമ്പർ സർക്കുലർ**

സംസ്ഥാനത്തെ ബാങ്കിംഗ് റഗുലേഷൻ നിയമത്തിനു കീഴിൽ വരാത്ത സഹകരണ സംഘം/ബാങ്ക് എന്നിവകളിൽ മുതിർന്ന പൗരന്മാർ നടത്തുന്ന സ്ഥിരം നിക്ഷേപങ്ങൾക്ക് അര ശതമാനം അധികം പലിശ നൽകുന്നതിനായുള്ള പ്രായപരിധി 65 വയസ്സിനു മുകളിൽ എന്നു സൂചന പ്രകാരം സഹകരണ സംഘം രജിസ്ട്രാർ നിർദ്ദേശം പുറപ്പെടുവിക്കുകയുണ്ടായിട്ടുണ്ട്. എന്നാൽ ടി അര ശതമാനം അധിക പലിശ നൽകുന്നതിനായി മുതിർന്ന പൗരന്മാരുടെ പ്രായപരിധി 65 വയസ്സിന് മുകളിൽ എന്നത് 60 വയസ്സിന് മുകളിൽ എന്നു ഭേദഗതി വരുത്തി ഇതിനാൽ നിർദ്ദേശം പുറപ്പെടുവിച്ചു കൊള്ളുന്നു.

ടി ഭേദഗതിക്ക് ഉത്തരവ് തീയതി മുതൽ പ്രാബല്യം ഉണ്ടായിരിക്കുന്നതാണ്.

സഹകരണസംഘം രജിസ്ട്രാർ – ഇൻചാർജ്ജ്

നമ്പർ. സി.ജി. (1) 5422/2004 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 26–02–2004

സർക്കുലർ നമ്പർ 8/2004

വിഷയം : **25–ാമത് നിക്ഷേപ സമാഹരണ യജ്ഞം – സംഘങ്ങളുടെ കുടിശ്ശിക തീർക്കുന്നതിനുള്ള പ്രത്യേക നടപടികൾ – വായ്പ കുടിശ്ശികക്കാർക്ക് ഇളവ് 01–03–2004 മുതൽ 31–03–2004 വരെ – നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. രജിസ്ട്രാറുടെ 12–02–2004 ലെ സി.ജി. (1) 5422/2004–ാം നമ്പർ കത്ത്**
2. രജിസ്ട്രാറുടെ 01–07–2003, 17–07–2003, 30–08–2003 എന്നീ തീയതികളിലെ 35/03, 39/03, 51/03 സർക്കുലറുകൾ

25–ാമത് സഹകരണ നിക്ഷേപ സമാഹരണം 01–03–2004 മുതൽ 31–03–2004 വരെ സംസ്ഥാനത്തെ സഹകരണ വായ്പാകഹകരണസംഘങ്ങളുടെ/ബാങ്കുകളുടെ ആഭിമുഖ്യത്തിൽ നടക്കുകയാണ്. സഹകരണമേഖലയുടെ സർവ്വോന്മുഖമായ പുരോഗതിക്ക് വഴിതെളിയിച്ചിട്ടുള്ള നിക്ഷേപ സമാഹരണ യജ്ഞത്തിന്റെ 25 വർഷം തികയുന്നതിനോടനുബന്ധിച്ചും, സംഘങ്ങളുടെ കുടിശ്ശിക കുറയ്ക്കുന്നതിനായി സഹകരണ വായ്പാ സംഘങ്ങളിൽ നിന്ന് വായ്പയെടുത്ത് കുടിശ്ശികയായിട്ടുള്ളവർക്ക് അവരുടെ കുടിശ്ശികതുക, നിക്ഷേപ സമാഹരണ കാലയളവായ 01–03–2004 മുതൽ 31–03–2004 നകം അടയ്ക്കുന്നതിന് ഇളവ് നൽകുന്നതിന്റെ ഭാഗമായി ചുവടെ പരാമർശിച്ചിരിക്കുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

(1) 31–03–2003 ൽ കുടിശ്ശികയായി നിൽക്കുന്ന വായ്പകൾക്ക്, വായ്പ കുടിശ്ശികആയ തിയതി മുതൽ 12% പലിശയോടു കൂടി, പിഴപലിശ, മറ്റ് ചിലവുകൾ എന്നിവ ഒഴിവാക്കി, 01–03–2004 മുതൽ 31–03–2004 നകം ഒന്നായി അടച്ചു തീർക്കാവുന്നതാണ്.

(2) സൂചനപ്രകാരം പുറപ്പെടുവിച്ചിട്ടുള്ള ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി പ്രകാരം ഒരു വായ്പയിന്മേൽ ആനുകൂല്യം ലഭിച്ചവർക്ക്, വീണ്ടും അതേ വായ്പയ്ക്ക് ഈ സർക്കുലർ പ്രകാരമുള്ള ആനുകൂല്യത്തിന് അർഹതയുണ്ടായിരിക്കുന്നതല്ല.

(3) വായ്പ തുക മുഴുവനും കുടിശ്ശിക ആയിട്ടുള്ളവർക്ക് മാത്രമോ ഈ ആനുകൂല്യത്തിനു അർഹത ഉണ്ടാകൂ.

(4) ആർബിട്രേഷൻ ഫയൽ ചെയ്യുകയും, അവാർഡ് ആകാതിരിക്കുകയും ചെയ്യുന്ന കേസുകളിൽ ആനുകൂല്യം നൽകിയതിനു ശേഷം ആർബിട്രേഷൻ കേസ് പിൻവലിക്കുന്നതിന് തീരുമാനം സംഘം കൈക്കൊണ്ട് ബന്ധപ്പെട്ട ആർബിട്രേറ്റർ മുമ്പാകെ ഫയൽ ചെയ്യേണ്ടതാണ്.

(5) എക്സിക്യൂഷൻ സ്റ്റേജിൽ ഇരിക്കുന്ന കേസുകളിൽ, സർക്കുലർ പ്രകാരം തുക അടക്കുന്നതിന്, ബന്ധപ്പെട്ട അസിസ്റ്റന്റ് രജിസ്ട്രാർ/ജോയിന്റ് രജിസ്ട്രാർ മുമ്പാകെ അപേക്ഷ നൽകി, ഉത്തരവ് വാങ്ങിയ ശേഷം ബന്ധപ്പെട്ട തുക അടച്ച് കണക്ക് തീർക്കാവുന്നതും, അപ്രകാരം കണക്ക് തീർക്കുന്ന മുറയ്ക്ക് സംഘം, ബന്ധപ്പെട്ട അസിസ്റ്റന്റ് രജിസ്ട്രാർ/ജോയിന്റ് രജിസ്ട്രാർ/സെയിൽ ഓഫീസർ എന്നിവരെ രേഖാമൂലം അറിയിക്കേണ്ടതും, അതിന്റെ അടിസ്ഥാനത്തിൽ ഇ.പി. ഫയലുകളിലെ നടപടി അവസാനിപ്പിക്കാവുന്നതാണ്.

(6) കേന്ദ്രബാങ്കിൽ നിന്നും/ഫെഡറേഷനിൽ നിന്നും പണം കടമെടുത്ത് വായ്പ നൽകുന്ന കാർഷിക വികസന ബാങ്ക്/ഹൗസിംഗ് സഹകരണ സംഘങ്ങൾ എന്നിവയിൽ നിന്നും എടുത്തിട്ടുള്ള വായ്പകൾ കേന്ദ്രബാങ്ക് ഈടാക്കുന്ന പലിശയിൽ കൂടാത്ത നിരക്കിൽ ഈടാക്കി വായ്പ കണക്കുകൾ അവസാനിപ്പിക്കാവുന്നതാണ്. കാർഷിക വികസന ബാങ്കുകൾ/ഹൗസിങ് സഹകരണ സംഘങ്ങൾ എന്നിവയിൽ നിന്നെടുത്തിട്ടുള്ള ദീർഘകാല വായ്പകൾ, തവണ കുടിശ്ശിക ആയതു കാരണം, കുടിശ്ശിക വായ്പയായി കണക്കാക്കിയിട്ടുണ്ടെങ്കിൽ ടി തവണ കുടിശ്ശികകൾ ഒന്നായി, സർക്കുലർ പ്രകാരം (ഖണ്ഡിക 6 ലെ നിബന്ധനകൾ) അടച്ചു തീർക്കാവുന്നതും, ആയതിനു ശേഷം വായ്പാ തവണകൾ മുൻപ്രകാരമുള്ള പലിശ നിരക്കിൽ കരാർ പ്രകാരമുള്ള തവണ പ്രകാരം അടച്ചു തീർക്കാവുന്നതുമാണ്.

31–03–2004 ന് ശേഷം തുക അടയ്ക്കുന്ന വായ്പകൾക്ക് ഈ ആനുകൂല്യത്തിന് അർഹതയുണ്ടായിരിക്കുന്നല്ല.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ : സി.ജി. (2) 1861/2004

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 10–03–2004

സർക്കുലർ നമ്പർ 12/2004

വിഷയം : **സഹകരണവകുപ്പ് – വരൾച്ച – പ്രാഥമിക കാർഷിക ഗ്രാമവികസന ബാങ്കുകൾ/പ്രാഥമിക സർവ്വീസ് സഹകരണ ബാങ്കുകൾ/വായ്പ സംഘങ്ങൾ എന്നിവയിൽ നിന്നും എടുത്തിട്ടുള്ള കാർഷിക വായ്പകൾ – കുടിശ്ശിഖ ഈടാക്കുന്നതിനുള്ള ജപ്തി നടപടികൾ നിർത്തിവയ്ക്കൽ – നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന :

സംസ്ഥാനത്ത് നിലവിലുള്ള രൂക്ഷമായ വരൾച്ചമൂലം വ്യാപകമായ കൃഷിനാശം ഉണ്ടായിട്ടുള്ളതായും, തദ്വാര സഹകരണസ്ഥാപനങ്ങളിൽ നിന്നും വായ്പയെടുത്തിട്ടുള്ള കർഷകർക്കു വായ്പകൾ തിരിച്ചടയ്ക്കുന്നതിന് കഴിയുന്നില്ലെന്നും ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ട്. വ്യാപകമായി വിളനാശം ഉണ്ടായ സാഹചര്യത്തിൽ കൃഷി ആവശ്യത്തിന് നൽകിയ വായ്പകൾ യഥാസമയം തിരിച്ചടക്കാൻ കഴിയാതെ ദുരിതമനുഭവിക്കുന്ന കർഷകരിൽ നിന്നും, സംസ്ഥാനത്തെ സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്കുകൾ, പ്രാഥമിക സർവ്വീസ് സഹകരണബാങ്കുകൾ/വായ്പാ സംഘങ്ങൾ എന്നിവയുൾപ്പടെ ഉള്ള എല്ലാ സഹകരണ സ്ഥാപനങ്ങളും ടി കാർഷിക വായ്പത്തുക ഈടാക്കുന്നതിന് സ്വീകരിച്ചിട്ടുള്ള ജപ്തി നടപടികൾ ആറുമാസത്തേക്ക് നിർത്തിവച്ചുകൊണ്ട് ഉത്തരവാകുന്നു. ഈ ഉത്തരവിന് ഈ സർക്കുലർ തീയതി മുതൽ പ്രാബല്യമുണ്ടായിരിക്കുന്നതാണ്.

എല്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരും തങ്ങളുടെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സംഘങ്ങൾക്കും ഉദ്യോഗസ്ഥന്മാർക്കും ഈ വിവരം നൽകേണ്ടതും അവർ ഈ ഉത്തരവ് നടപ്പിലാക്കുന്നുണ്ടെന്ന് ഉറപ്പ് വരുത്തേണ്ടതുമാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ എ. ഡി. എൽ. (2) 13725/2004 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവന്തപുരം, തീയതി 30–04–2004

സർക്കുലർ നമ്പർ 18/2004

വിഷയം : **സഹകരണം – ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി പ്രകാരം കുടിശ്ശിക അടച്ചു തീർക്കുന്ന വായ്പാ കണക്കുകളിൽ വരവുള്ള തുക – ആഡിറ്റ് കരുതലിൽ നിന്നും വിടുതൽ ചെയ്യുന്നത് സംബന്ധിച്ച്.**

പരാമർശം : 1. 01–07–2003 ലെ 35/2003–ാം നമ്പർ സർക്കുലർ
2. 30–08–2003 ലെ 51/2003–ാം നമ്പർ സർക്കുലർ
3. 31–03–2004 ലെ 15/2004 –ാം നമ്പർ സർക്കുലർ

പ്രാഥമിക വായ്പാസഹകരണ സംഘങ്ങളിലെ വർദ്ധിച്ച കുടിശ്ശിക കുറയ്ക്കുന്നതിനുള്ള വായ്പക്കാർക്ക് ആശ്വാസം നൽകുന്നതിനും വേണ്ടി മേൽ പരാമർശം പ്രകാരം ഒറ്റത്തവണതീർപ്പാക്കൽ പദ്ധതി ആവിഷ്കരിച്ചു നടപ്പിൽ വരുത്തിയിരിക്കുകയാണ്. ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയിൽ അപേക്ഷ നൽകി തുക അടച്ചു കൊണ്ടിരിക്കുന്ന വായ്പക്കാരുടെ മുഴുവൻ മുതലിനും പലിശക്കും കൂടി ചില ആഡിറ്റർമാർ കരുതൽ നിലനിർത്തി വരുന്നതായി ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. ഇപ്രകാരം കരുതൽ നിലനിർത്തുന്നത് സ്ഥാപനത്തിന്റെ സാമ്പത്തികനില തെറ്റായി കാണിക്കുന്നതിന് ഇടയാക്കുന്നതിനാലും, ഇക്കാര്യത്തിലൊരു പൊതുവായ നിർദ്ദേശത്തിന്റെ അഭാവമുണ്ടെന്ന് കാണുന്നതിനാലും താഴെ പറയുന്ന നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു.

വായ്പാ സംഘങ്ങളിൽ സൂക്ഷിച്ചിട്ടുള്ള കുടിശ്ശിക രജിസ്റ്റർ പ്രകാരമുള്ള കണക്കിൽ ഉൾപ്പെട്ടിട്ടുള്ള കുടിശ്ശിക, വായ്പക്കാരൻ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ ഗുണഭോക്താവാകുന്നു എങ്കിൽ അപ്രകാരമുള്ള കുടിശ്ശികയുടെ മുതലിലോ പലിശയിലോ തവണ വ്യവസ്ഥയിൽ അടയ്ക്കുന്ന തുകക്ക് ബന്ധപ്പെട്ട ആഡിറ്റർ കരുതൽ നിലനിർത്തേണ്ടതില്ലെന്നും മുൻ ആഡിറ്റിൽ കരുതൽ വച്ചിട്ടുണ്ടെങ്കിൽ അത് പരിശോധിച്ച് തൻവർഷത്തെ ആഡിറ്റിൽ ആവശ്യമായ നീക്കുപോക്കുകൾ ചെയ്യേണ്ടതുമാകുന്നു. സ്യൂട്ട് അക്കൗണ്ടിലേക്ക് തുക മാറ്റിയിട്ടുള്ള കേസ്സുകളിലും ഇപ്രകാരം ആവശ്യമായ നീക്കുപോക്കുകൾ ചെയ്യേണ്ടതാണ്. ഇതിനാവശ്യമായ സ്റ്റേറ്റ്മെന്റ് സംഘത്തിന്റെ ചീഫ് എക്സിക്യൂട്ടീവ് തയ്യാറാക്കി ബന്ധപ്പെട്ട ആഡിറ്റർക്ക് സമർപ്പിക്കേണ്ടതാണ്. മേൽ നിർദ്ദേശം സംസ്ഥാനത്തെ എല്ലാ വായ്പാ സഹകരണ സംഘങ്ങൾക്കും/ബാങ്കുകൾക്കും ബാധകമായിരിക്കുന്നതാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ. സി.ബി. (1) 14796/2003 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 31–03–2004

സർക്കുലർ നമ്പർ 15/2004

വിഷയം : **സഹകരണ വകുപ്പ് – പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി – കാലാവധി ദീർഘിപ്പിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : സഹകരണസംഘം രജിസ്ട്രാറുടെ 35/03, 51/03 സർക്കുലറുകൾ

സഹകരണവകുപ്പിന്റെ ഭരണ നിയന്ത്രണത്തിലുള്ള വായ്പാസംഘങ്ങളിൽ സൂചന പ്രകാരം നടപ്പിലാക്കി വന്നിരുന്ന ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ കാലാവധി 2004 മാർച്ച് 31 ന് അവസാനിച്ചു. എന്നാൽ, സഹകാരികളുടെ നിരന്തരമായ ആവശ്യം കണക്കിലെടുത്തും ബോർഡ്, റിസർവ്വ് ബാങ്ക് എന്നിവയുടെ നിർദ്ദേശം കണക്കിലെടുത്തും 2004 ജൂലൈ 31 വരെ ടി പദ്ധതി ദീർഘിപ്പിക്കുന്നതിന് തീരുമാനിച്ചിട്ടുണ്ട്.

വായ്പാസഹകരണ സംഘങ്ങളിൽ 2003 മാർച്ച് 31 ന് ബാക്കി നിൽക്കുന്ന മുഴുവൻ വായ്പ തുകയും കുടിശ്ശികയായിട്ടുള്ള വായ്പകൾ ഈ പദ്ധതി അനുസരിച്ച് ഒറ്റത്തവണയായി അടച്ചു തീർക്കാം. ഇങ്ങനെ വായ്പാ കുടിശ്ശിക അടച്ചു തീർക്കുമ്പോൾ പിഴപ്പലിശ, കൂട്ടുപലിശ, പലിശക്കു പലിശ, മറ്റ് അനാമത്ത് ചെലവുകൾ എന്നിവ ഒഴിവാക്കേണ്ടതാണ്. കാലാവധി എത്തി പൂർണ്ണമായും കുടിശ്ശികയായി നിൽക്കുന്ന കാർഷികേതര വായ്പകൾക്കു മുഴുവൻ തുകയും കുടിശ്ശികയായ തീയതി മുതൽ 11% പലിശ നൽകിയാൽ മതിയാകും തുക ഒന്നായി അടച്ചു തീർക്കാൻ കഴിയാത്തവർക്ക് കുടിശ്ശിക വായ്പ തുകയുടെ 10% അടച്ച് ബാക്കി 10 പ്രതിമാസ തുല്യ തവണകളായി 11% പലിശ നിരക്കിൽ അടച്ചു തീർക്കാവുന്നതാണ്.

എന്നാൽ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ, കാർഷിക വികസന ബാങ്കുകൾ എന്നിവ സ്വന്തം ഫണ്ടിൽ നിന്നും നൽകിയ കാർഷിക വായ്പകൾ ഒറ്റത്തവണയായി അടച്ചു തീർക്കുമ്പോൾ പിഴപ്പലിശ, കൂട്ടുപലിശ, മറ്റ് അനാമത്ത് ചെലവുകൾ എന്നിവ ഒഴിവാക്കി 10% (പത്തു ശതമാനം) പലിശ ഈടാക്കിയാൽ മതിയാകും. മേൽ ഖണ്ഡികപ്രകാരമുള്ള തവണ വ്യവസ്ഥയിലും ഈ വായ്പാ കണക്ക് അവസാനിപ്പിക്കാൻ അനുവദിക്കേണ്ടതാണ്. ആർബിട്രേഷൻ/ എക്സിക്യൂഷൻ സ്റ്റേജിൽ ഇരിക്കുന്ന കേസ്സുകൾക്കും ഈ സ്കീം ബാധകമായിരിക്കും. മറ്റ് സ്ഥാപനങ്ങളിൽ നിന്നും കടം വാങ്ങി വായ്പാ വിതരണം നടത്തിയിട്ടുള്ള കേസുകളിൽ വാങ്ങിയ നിരക്കിൽ അധികരിക്കാത്ത പലിശ ഈടാക്കി വായ്പാ കണക്ക് അവസാനിപ്പിക്കാവുന്നതാണ്.

വായ്പാഗഡുക്കൾ മുടക്കം വരുത്തുകയും എന്നാൽ 31–03–2003 ൽ കാലാവധി എത്താതിരിക്കുകയും ചെയ്യുന്ന കേസുകളിൽ വായ്പാ കണക്ക് ഒറ്റതവണ അവസാനിപ്പിക്കൽ പദ്ധതിയുടെ കീഴിൽ തീർപ്പാക്കാൻ അപേക്ഷിക്കുന്ന പക്ഷം, പിഴപ്പലിശ, കൂട്ടുപലിശ പലിശയ്ക്കുമേൽ പലിശ മറ്റു ചെലവുകൾ എന്നിവ ഒഴിവാക്കി കാലാവധി എത്തുന്ന തീയതി മുതൽ മേൽ പ്രകാരമുള്ള പലിശ നിരക്കിൽ ഒന്നായി വായ്പാ കണക്ക് അവസാനിപ്പിക്കുന്നതിന് അനുവദിക്കാവുന്നതാണ്.

ഈ സർക്കുലറിന് 01–04–2004 മുതൽ പ്രാബല്യം ഉണ്ടായിരിക്കുന്നതാണ്.

കെ. കേശവൻ

സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ. സി.ജി. (2) 15019/2004

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 15–04–2004

സർക്കുലർ നമ്പർ 16/2004

വിഷയം : **വരൾച്ച 2004 – ഹ്രസ്വകാല വായ്പകൾ മധ്യകാല വായ്പകളായും, മദ്ധ്യകാല വായ്പകളുടെ തവണകൾ പ്രത്യേക മദ്ധ്യകാല വായ്പകളായി മാറ്റുന്നതും – നടപടികൾ സ്വീകരിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : 19–03–2004 ൽ നടന്ന സെൻട്രൽ ബാങ്ക് കോൺഫറൻസ് തീരുമാനം

സംസ്ഥാനത്ത് രൂക്ഷമായിരിക്കുന്ന വരൾച്ച മൂലം വ്യാപകമായി കൃഷിനാശം സംഭവിച്ചിട്ടുണ്ട്. പ്രാഥമിക കാർഷിക സഹകരണ സംഘങ്ങളിൽ നിന്നെടുത്തിട്ടുള്ള കാർഷിക വായ്പകൾ, വിളനാശം സംഭവിച്ചതുകാരണം തിരിച്ചടക്കാൻ കഴിയാത്ത സാഹചര്യത്തിലും 19–03–2004 ൽ കൂടിയ സെൻട്രൽ ബാങ്ക് കോൺഫറൻസിലെ തീരുമാനത്തിന്റേയും, അടിസ്ഥാനത്തിൽ ഹ്രസ്വകാല കാർഷിക വായ്പകൾ മദ്ധ്യകാല വായ്പകളായും, മദ്ധ്യകാല വായ്പകളിലെ തിരിച്ചടയ്ക്കാത്ത ഗഡുക്കൾ പ്രത്യേക മദ്ധ്യ കാല വായ്പകളായും മാറ്റുന്നതിനായി ചുവടെ പരാമർശിക്കുന്ന നിർദ്ദേശങ്ങൾ പുറ പ്പെടുവിക്കുന്നു.

1. പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങളിൽ നിന്നെടുത്തിട്ടുള്ള കാർഷിക വായ്പകളുടെ കാലാവധി തിരിച്ചടക്കേണ്ട തിയതി മുതൽ 3 മാസത്തേക്ക് ദീർഘിപ്പിക്കേണ്ടതാണ്.

2. പ്രാഥമിക കാർഷിക വായ്പാ സംഘങ്ങളിൽ നിന്നെടുത്തിട്ടുള്ള കാർഷിക വായ്പകൾ, 2003 – 2004 വർഷങ്ങളിൽ തിരിച്ചടയ്ക്കേണ്ടിയിരുന്നത്, വിളനാശം സംഭ വിച്ചതു കാരണം തിരിച്ചടയ്ക്കാൻ കഴിയാത്തതിനാൽ വായ്പകൾ തിരിച്ചടക്കേണ്ട തിയതി മുതൽ മദ്ധ്യകാല വായ്പകളാക്കി മാറ്റേണ്ടതാണ്.

3. വരൾച്ച മൂലം കാർഷിക വിള നഷ്ടപ്പെടുകയും തൻമൂലം കാർഷികാദായ ത്തിൽ നിന്ന് വായ്പ തിരിച്ചടയ്ക്കാൻ സാധിക്കാതെ വരികയും ചെയ്തിട്ടുള്ള അംഗ ങ്ങൾക്കു മാത്രമേ ഈ ആനുകൂല്യത്തിന് അർഹതയുള്ളൂ.

4. വരൾച്ച ബാധിത പ്രദേശമായി ഗവൺമെന്റ് പ്രഖ്യാപിച്ചിട്ടുള്ള പ്രദേശങ്ങ ളിലെ കർഷകർക്ക് മാത്രമേ ഈ ആനുകൂല്യം ലഭിക്കുകയുള്ളൂ.

5. ഈ കാലയളവിൽ ഹ്രസ്വകാല വായ്പയിലും, മദ്ധ്യകാല വായ്പയിലും മാറ്റി നൽകുന്ന തിയതി വരെ ഈടാക്കേണ്ടതായ പലിശയുടെ തിരിച്ചടവ് മാറ്റി വയ്ക്കേ ണ്ടതും, വായ്പ തിരിച്ചടയ്ക്കുന്ന വേളയിൽ വായ്പ തുകയും പലിശയും മേൽ മാറ്റി നിർത്തിയിരിക്കുന്ന പലിശയും സഹിതം തിരികെ അടയ്ക്കേണ്ടതുമാണ്.

6. ഹ്രസ്വകാല വായ്പകൾ മദ്ധ്യകാല വായ്പകളായും മദ്ധ്യകാല വായ്പക ളിൽ ഈ കാലയളവിൽ തിരിച്ചടയ്ക്കേണ്ടിയിരുന്ന ഗഡുക്കൾ പ്രത്യേക മദ്ധ്യകാല വായ്പയാക്കുന്നതിനുള്ള അപേക്ഷകൾ അംഗങ്ങൾ 2004 മെയ് 15–ാം തീയതിക്ക് മുൻപ് ബന്ധപ്പെട്ട സഹകരണസംഘങ്ങളിൽ നൽകേണ്ടതും മെയ് 30 നകം ഇത്തരം അപേ ക്ഷകൾ സംഘം പരിഗണിക്കേണ്ടതും, ജൂൺ 15 നകം മദ്ധ്യകാല വായ്പകളാക്കി മാറ്റേണ്ടതുമാണ്.

7. ഇപ്രകാരം മാറ്റി നൽകപ്പെടുന്ന വായ്പകൾക്ക് ഹ്രസ്വകാല കാർഷിക വായ്പക്ക് ഈടാക്കാവുന്ന പലിശ നിരക്ക് മാത്രമേ ഈടാക്കാൻ പാടുള്ളൂ.

8. ഇപ്രകാരം വായ്പകൾ മാറ്റി നൽകുന്നവർക്ക് പുതിയ കൃഷി വായ്പകൾ നൽകുന്നതിനായി മാറ്റി നൽകിയ വായ്പകൾക്കനുസൃതമായി ജില്ലാ സഹകരണ ബാങ്കു കൾ പ്രാഥമിക സംഘങ്ങളുടെ നിൽപ് വായ്പകൾ മദ്ധ്യകാല വായ്പകളാക്കി മാറ്റി നൽകേണ്ടതാണ്.

9. സംഘങ്ങളുടെ ജില്ലാ ബാങ്കിലെ വായ്പകളുടെ നിൽപ് ബാക്കി പലിശ ജില്ലാ ബാങ്കുകൾ അഞ്ചു കൊല്ലത്തേക്കുള്ള 'ഫണ്ട് ഇന്ററസ്റ്റ് ടേം ലോൺ' (പലിശര ഹിത വായ്പ) ആയി സംഘങ്ങൾക്ക് മാറ്റി നൽകേണ്ടതുമാണ്.

10. വരൾച്ച ബാധിത പ്രദേശങ്ങളിലെ കൃഷിക്കാർക്ക് പുതിയ വായ്പകൾ നൽകു

ന്നതിന് ജില്ലാ ബാങ്കുകൾ ആവശ്യമായ ഫണ്ട് അപേക്ഷിക്കുന്ന മുറയ്ക്ക് സംഘ ങ്ങൾക്ക് നൽകേണ്ടതാണ്. ആയതിനായി സംസ്ഥാന സഹകരണ ബാങ്ക് 7.50 % നിര ക്കിൽ ജില്ലാ ബാങ്കുകൾക്ക് വായ്പ നൽകേണ്ടതാണ്. ജില്ലാ ബാങ്കുകൾ ടി തുക 7.50 % നിരക്കിൽ തന്നെ പ്രാഥമിക കാർഷിക സഹകരണ സംഘങ്ങൾക്കും പ്രാഥമിക കാർഷിക സഹകരണ സംഘങ്ങൾ ടി ഫണ്ടുപയോഗിച്ച് കർഷകർക്ക് 8.50 % നിരക്കിൽ വായ്പ നൽകേണ്ടതുമാണ്. യാതൊരു കാരണവശ്ശാലും മേൽ പരാമർശിച്ച നിരക്കിൽ കൂടുതൽ പലിശ ഇപ്രകാരം നൽകുന്ന വായ്പകൾക്ക് ഈടാക്കാൻ പാടുള്ളതല്ല.

11. ജില്ലാ ബാങ്കുകൾ സ്വന്തം ഫണ്ടുപയോഗിച്ചാണ് പ്രാഥമിക സംഘങ്ങൾക്ക് ഇത്തരം വായ്പകൾ നൽകുന്നതെങ്കിൽ അവയ്ക്ക് 7.50 % പലിശ ഈടാക്കാവുന്നതാണ്. പ്രാഥമിക സംഘങ്ങൾ 8.5% പലിശക്കു തന്നെ കൃഷിക്കാർക്ക് വായ്പ നൽകേണ്ടതാണ്.

12. പ്രാഥമിക സഹകരണ സംഘങ്ങൾ ഇപ്രകാരം ഹ്രസ്വകാല വായ്പകൾ മദ്ധ്യകാലവായ്പകളായി മാറ്റി നൽകുകയും, പുതുതായി വായ്പ നൽകുകയും ചെയ്തതു മൂലം അതാതു സംഘങ്ങളുടെ ബൈലായിൽ വ്യവസ്ഥ ചെയ്തിട്ടുള്ള സംഘത്തിന്/ അംഗത്തിന് പരമാവധി വാങ്ങാവുന്ന കടത്തിന്റെ പരിധി ഇത്തരം കേസുകളിൽ ബാധ കമാക്കേണ്ടതില്ല.

13. ഇപ്രകാരം മാറ്റി നൽകുന്ന വായ്പകൾ പരമാവധി 5 വർഷത്തിനുള്ളിൽ അടച്ചു തീർക്കത്തക്ക വിധത്തിൽ തിരിച്ചടവ് ക്രമീകരിക്കേണ്ടതാണ്.

14. ചെറുകിട/നാമമാത്ര കർഷകർ ഒഴികെ, തിരിച്ചടവ് ശേഷിയുള്ള കർഷകർ ഹ്രസ്വ കാല കാർഷിക വായ്പയുടെ പലിശ അടയ്ക്കേണ്ടതാണെന്ന വ്യവസ്ഥയ്ക്കു വിധേയ മായി അവർ എടുത്തിട്ടുള്ള വായ്പയും മദ്ധ്യകാല വായ്പയായി മാറ്റി നൽകാവുന്നതാണ്.

15. ഹ്രസ്വകാല വായ്പകൾ മദ്ധ്യകാല വായ്പകളായും മദ്ധ്യകാല വായ്പകളിലെ ഗഡുക്കൾ പുതിയ മദ്ധ്യകാല വായ്പകളായും മാറ്റുന്നതിന്, ജാമ്യം നിർബന്ധമാക്കേ ണ്ടതില്ല. മുമ്പ് ഹ്രസ്വകാല വായ്പകൾ ആൾ ജാമ്യത്തിലോ, വിളവിന്റെ ഈടിൻമേലോ ആണ് നൽകിയതെങ്കിൽ പുതുതായി മാറ്റി നൽകുന്ന വായ്പകൾക്കും കൃഷി ആവ ശ്യത്തിന് നൽകുന്ന പുനർവായ്പക്കും അതേ മാനദണ്ഡം തുടരാവുന്നതാണ്. ആവ ശ്യമുള്ള കേസിൽ ബോണ്ട്/പ്രോമിസറി നോട്ട് വാങ്ങാവുന്നതാണ്. യാതൊരു കാര ണവശാലും മതിയായ ജാമ്യം/ഈട് ഇല്ലായെന്ന കാരണത്താൽ കർഷകർക്ക് ഈ പദ്ധതി പ്രകാരമുള്ള ആനുകൂല്യം നിഷേധിക്കാൻ പാടുള്ളതല്ല.

16. കിസാൻ ക്രെഡിറ്റ് കാർഡ് പദ്ധതി പ്രകാരം നൽകിയിട്ടുള്ള വായ്പകൾക്കും മേൽ നിർദ്ദേശങ്ങൾ ബാധകമാണ്.

17. കാർഷിക വികസന ബാങ്കുകളിൽ നിന്ന് എടുത്തിട്ടുള്ള ദീർഘകാല വായ്പ കളുടെ കാലാവധി ഒരു വർഷത്തേക്ക് ദീർഘിപ്പിക്കുന്നതിനും, ഇപ്രകാരം ദീർഘിപ്പിച്ചു നൽകുന്ന ഗഡുവിന് ഒരു വർഷത്തേക്ക് അടക്കേണ്ട പലിശ ഒഴിവാക്കി നൽകേണ്ടതുമാണ്.

18. പ്രാഥമിക സംഘങ്ങൾ, അംഗതലത്തിൽ വായ്പ മാറ്റി നൽകിയതിനു ശേഷം, മൊത്തം ആവശ്യമായ തുകയ്ക്കുള്ള അപേക്ഷ ജില്ലാ ബാങ്കിന് നൽകേണ്ടതും, ജില്ലാ ബാങ്കുകൾ പ്രാഥമിക സംഘങ്ങൾക്കുള്ള വായ്പകൾ മദ്ധ്യകാല വായ്പകളായി മാറ്റി നൽകിയതിനു ശേഷം, ആവശ്യമെങ്കിൽ സംസ്ഥാന സഹകരണ ബാങ്കിന് അപേക്ഷ നൽകേണ്ടതും, സംസ്ഥാന സഹകരണ ബാങ്ക്, ജില്ലാ ബാങ്കുകളുടെ വായ്പകൾ മാറ്റി നൽകേണ്ടതുമാണ്. ഇപ്രകാരം മാറ്റി നൽകുന്നതിന് അഗ്രികൾച്ചറൽ ക്രെഡിറ്റ് സ്റ്റെബി ലൈസേഷൻ ഫണ്ടിൽ നിന്നും നിയമാനുസൃതമായുള്ള വിഹിതം ഉപയോഗിക്കേണ്ടതാണ്.

19. ഇപ്രകാരം വായ്പകൾ മാറ്റി നൽകുകയും, പുനർ വായ്പ നൽകുകയും ചെയ്യുന്നതിനെ സംബന്ധിച്ച് വിവരം ഇതോടൊപ്പമുള്ള പ്രൊഫോർമയിൽ ജില്ലാ സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) നെ അറിയിക്കേണ്ടതും, ജോയിന്റ് രജിസ്ട്രാർ ടി വിവരങ്ങൾ പരിശോധിച്ച് സഹകരണ സംഘം രജിസ്ട്രാർക്ക് സമർപ്പിക്കേണ്ടതുമാണ്.

എല്ലാ ജോയിന്റ് രജിസ്ട്രാർ(ജനറൽ) മാരും താങ്കളുടെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സംഘങ്ങൾക്കും, ഉദ്യോഗസ്ഥന്മാർക്കും ഈ വിവരം നൽകേണ്ടതും അവർ ഈ നിർദ്ദേശങ്ങൾ നടപ്പിലാക്കുന്നുണ്ടെന്ന് ഉറപ്പു വരുത്തേണ്ടതുമാണ്.

കെ. കേശവൻ

സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ : സി.ജി. (2) 24457/04

സഹകരണസംഘം രജിസ്ട്രാറാഫീസ്,
തിരുവനന്തപുരം, തീയതി 16–7–2004

സർക്കുലർ നമ്പർ 25/2004

വിഷയം : **കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം) ആക്ട് 2001 – കാർഷിക കടങ്ങൾക്ക് 2004–05 ലെ പദ്ധതി – സഹകരണ സംഘങ്ങളിൽ നടപ്പാക്കുന്നത് – സംബന്ധിച്ച്.**

സൂചന : **1. കേരള കാർഷിക കടക്കാർ(താൽക്കാലിക ആശ്വാസം) ആക്ട് 2001–6977/ലെ ജി.എ.– 1/2001/നിയമം തീയതി 28–12–2001**
2. ജി.ഒ. (പി) നമ്പർ 30/2002 റവന്യൂ തീയതി 28–02–2002
3. ജി.ഒ. (എം.എസ്.) 194/2004/റവന്യൂ തീയതി 09–06–2004

2001 ലെ കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം) ആക്ട് നിലവിൽ വന്നപ്പോൾ കർഷകരുടെ വായ്പകൾക്ക് മോറട്ടോറിയവും, പലിശയും, പിഴപ്പലിശയും ഇളവ്, മോറട്ടോറിയം കാലാവധിക്കുശേഷം വായ്പ – റീഷെഡ്യൂൾ ചെയ്യുക തുടങ്ങിയ ആനുകൂല്യങ്ങൾ വ്യവസ്ഥ ചെയ്തിരുന്നു. ഈ ആക്ടിന്റെ വെളിച്ചത്തിൽ, സൂചന2 ലെ ചട്ടങ്ങളും പുറപ്പെടുവിച്ചിരിക്കുന്നു. ഈ നിയമത്തിന്റെ പരിധിയിൽ കർഷകർ സഹകരണ സംഘങ്ങളിൽ നിന്നും എടുത്തിട്ടുള്ള വായ്പകളും ഉൾപ്പെടുന്നു. പ്രസ്തുത വിവരം അറിയിച്ചു കൊണ്ട് 01–11–2002 ൽ 41/02–ാം നമ്പറായി സഹകരണ സംഘം രജിസ്ട്രാർ സർക്കുലർ നിർദ്ദേശം പുറപ്പെടുവിച്ചിരുന്നു.

2001 – ലെ കേരള കാർഷിക കടക്കാർ (താത്ക്കാലിക ആശ്വാസം) ആക്ടിന്റെ തുടർച്ചയായി, 2001 ലെ ടി ആക്ടിൽ കർഷകൻ എന്ന നിർവ്വചനത്തിൽ വരുന്ന വ്യക്തിക്ക് 29–12–2001 ന് ശേഷമുള്ള പ്രസ്തുത ആക്ടിലെ കടം എന്ന നിർവ്വചനപ്രകാരമുള്ള സ്ഥാപനങ്ങളിൽ ഇന്നും നിലനിൽക്കുന്നതായ കാർഷിക കടങ്ങൾക്ക് മാത്രം 23–01–2004 മുതൽ ഒരു വർഷത്തേക്ക് മോറട്ടോറിയം നൽകുന്നതായിരിക്കും.

മോറട്ടോറിയം കാലാവധിയിൽ പലിശയും, പിഴപ്പലിശയും ഇളവ് അനുവദിക്കുന്നതാണ്.

ടി മോറട്ടോറിയം കാലാവധിയിൽ പലിശയും, പിഴപ്പലിശയും നൽകുന്നതിൽ വരുന്ന നഷ്ടം സർക്കാർ റീ–ഇംപേഴ്സ് ചെയ്യുന്നതാണ്.

മോറട്ടോറിയം കാലാവധിക്കു ശേഷം വായ്പാതുക യുക്തിസഹജമായ രീതിയിൽ സർക്കാരും പ്രസ്തുത സ്ഥാപനങ്ങളും റീ–ഷെഡ്യൂൾ ചെയ്യേണ്ടതാണ്.

ഈ നിയമത്തിന്റെ പരിധിയിൽ വരുന്ന കർഷകർക്ക് തന്റെ കടബാദ്ധ്യതയിൽ നിന്നും പരമാവധി താൽക്കാലിക ആശ്വാസം ലഭിക്കുന്നതിനും, അർഹരായ ഗുണഭോക്താക്കളെ തെരഞ്ഞെടുക്കുന്നതിനും എല്ലാ ജനറൽ ജില്ലാ സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർമാരും പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

No. CLT (4) 53537/03 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, dated 22-07-2004

CIRCULAR No. 26/04

Sub **: Disbursement of Long Term Loans - Simplification of procedure - Modification - Regarding**

Read **: 1. This office circular No. 89/80 dated 30-12-1980**
2. This office circular No. 21/86 dated 07-06-1986
3. This office circular No. 40/86 dated 28-09-1986
4. This office circular No. 22/94 dated 14-07-1994
5. Minutes of the meeting held on 03-07-2002 in the Chamber of the Hon'ble Minister for Co-operation and Ports

As per the circulars cited 1 to 4 the ceiling was fixed for the valuation of security properties/ hypotheca by the supervisors, Agriculture Officers and the Assistant Registrar / Valuation Officers working in the Primary Agriculture and Rural Development Banks in the State.

In the joint meeting of Kerala State Co-operative Agriculture and Rural Development Bank authorities. Assistant Registrar/Valuation Officers, Sale Officers and the Development Officers held in the Chamber of Hon'ble Minister for Co-operation and Ports, it was decided to enhance the limit of valuation of, hypothecated by Agriculture Officers posted in Primary Co-operative Agriculture and Rural Development Banks from Co-operative Department and accordingly the para 2 (4) of the circular cited four is partially modified as follows :-

2 (4) Valuation :- The senior supervisors of the Primary Co-operative Agriculture and Rural development Banks are authorised to value security properties in respect of loan application up to and including Rs. 20,000/- The Agriculture Officers working in the Banks authorised to value the properties/hypotheca up to Rs. 2 lakhs, and the valuation of securities properties/hypotheca in respect of loan application above Rs. 2 lakhs are authorised by the Assistant Registrar/ Valuation Officers from Co-operative Department.

This modification will have effect from the date of 17-12-2002.

Registrar of Co-operative Societies in charge

നമ്പർ. സി.ബി. (1) 14796/2003 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 30–07–2004

സർക്കുലർ നമ്പർ 28/2004

വിഷയം : **സഹകരണ വകുപ്പ് – പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ – ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി – കാലാവധി ദീർഘിപ്പിക്കുന്നത് സംബന്ധിച്ച്.**

സൂചന : 1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 31–03–2004 ലെ 15/2004 നമ്പർ സർക്കുലർ

2. ഭാരതീയ റിസർവ്വ് ബാങ്കിന്റെ 20–02–2004 ലെ യു.ബി.ഡി.പി.ഡി.സി.എസ്./ സർക്കുലർ നമ്പർ. 1/09. 140.00 (ഒ.റ്റി.എസ്സ്)/2003–2004 മ്പർ കത്ത്

സൂചന ഒന്ന് സർക്കുലർ പ്രകാരം പ്രാഥമിക സഹകരണ സംഘങ്ങൾ മുഖേന നടപ്പിലാക്കി വരുന്ന ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ കാലാവധി 2004, ജൂലായ് 31 ന് അവസാനിക്കുകയാണ് എന്നാൽ സൂചന രണ്ടുപ്രകാരം ഭാരതീയ റിസർവ്വ് ബാങ്ക് പുറപ്പെടുവിച്ച മാർഗ്ഗ നിർദ്ദേശങ്ങൾ പ്രകാരം അർബൻ സഹകരണ ബാങ്കുകളിൽ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി പ്രകാരം അപേക്ഷ സ്വീകരിച്ച് നടപടികൾ കൈക്കൊളേളണ്ട തീയതി 31–10–2004 വരെ ദീർഘിപ്പിച്ചിട്ടുളളതു പരിഗണിച്ചും, അതിനനുസൃതമായ പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളിലും ടി പദ്ധതിയുടെ കാലാവധി ദീർഘിപ്പിക്കണമെന്ന് സഹകാരികളിൽ നിന്ന് ആവശ്യമുയർന്നത് കണക്കിലെടുത്തും, സഹകരണ സംഘം രജിസ്ട്രാറുടെ ഭരണനിയന്ത്രണത്തിലുള്ള പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളിൽ സൂചന 1 പ്രകാരം നടപ്പിലാക്കി വരുന്ന ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ കാലാവധി 31–10–2004 വരെ ദീർഘിപ്പിച്ചുകൊണ്ട് ഉത്തരവാകുന്നു. സൂചന 1 സർക്കുലറിലെ മാർഗ്ഗ നിർദ്ദേശങ്ങൾക്ക് യാതൊരു മാറ്റവുമില്ലാതെ അതേപടി തുടരുന്നതാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ. സി.ജി. (2) 15019/04 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 30–07–2004

സർക്കുലർ നമ്പർ 29/2004

വിഷയം : **വരൾച്ച 2004 – (ഹ്രസ്വകാല വായ്പകൾ മദ്ധ്യകാല വായ്പകളായും മദ്ധ്യകാല വായ്പകളുടെ തവണകൾ പ്രത്യേക മദ്ധ്യകാല വായപകളായി മാറ്റുന്നതും) – നടപടി സ്വീകരിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 15–04–2004 ലെ 16/2004–ാം നമ്പർ സർക്കുലർ**

2. 27–07–2004 നു ബഹു: സഹകരണ വകുപ്പ് മന്ത്രിയുടെ അദ്ധ്യക്ഷതയിൽ ചേർന്ന യോഗ തീരുമാനം

വരൾച്ച 2004 നെ തുടർന്ന് ഹ്രസ്വകാല വായ്പകൾ മദ്ധ്യകാല വായ്പകളായും മദ്ധ്യകാല വായ്പകളുടെ തവണകൾ പ്രത്യേക മദ്ധ്യകാല വായ്പകളായും മാറ്റുന്നതി

നുള്ള സമയപരിധി സൂചന (1) ലെ 6–ാം ഖണ്ഡികയിൽ പരാമർശിച്ചിരുന്നു. എന്നാൽ ഈ സമയപരിധിയ്ക്കുള്ളിൽ അർഹരായ എല്ലാ അംഗങ്ങളുടെയും വായ്പകൾ മദ്ധ്യ കാല വായ്പകളാക്കി മാറ്റുന്നതിനും ജില്ലാ/സംസ്ഥാന സഹകരണ ബാങ്കിലെ അപേക്ഷകൾ സമർപ്പിക്കുന്നതിനും പുനർ വായ്പ അനുവദിക്കുന്നതിനുമുള്ള നടപടികൾ പൂർത്തിയാക്കാൻ കഴിഞ്ഞില്ലെന്നും കാലാവധി ദീർഘിപ്പിക്കണമെന്നു സൂചന (2) പ്രകാരം ചേർന്ന യോഗത്തിൽ തീരുമാനിച്ചതിന്റെ അടിസ്ഥാനത്തിലും സൂചന (1) പ്രകാരം പുറപ്പെടുവിച്ച സർക്കുലറിലെ സമയകാല പരിധി 2004 സെപ്തംബർ 30 വരെ ദീർഘിപ്പിച്ച് ഉത്തരവാകുന്നു.

എല്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരും തങ്ങളുടെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സംഘങ്ങൾക്കും ഉദ്യോഗസ്ഥന്മാർക്കും ഈ വിവരം നൽകേണ്ടതും അവർ ഈ നിർദ്ദേശങ്ങൾനടപ്പിലാക്കുന്നുണ്ടെന്നും, അർഹരായ എല്ലാ കർഷകർക്കും സൂചന 1–ൽ നിർദ്ദേശിച്ചിരിക്കുന്ന പ്രകാരമുള്ള ആനുകൂല്യങ്ങൾ ലഭിച്ചിട്ടുണ്ടെന്നു ഉറപ്പു വരുത്തേണ്ടതുമാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സി.പി. (2) 33196/2004
സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 10.08.2004

സഹകരണസംഘം രജിസ്ട്രാർ
തിരുവനന്തപുരം

എല്ലാ ജോയിന്റ് രജിസ്ട്രാർമാർക്കും

സർ,

വിഷയം : **പ്രാഥമിക കാർഷിക കാർഷികേതര വായ്പാ സഹകരണ ബാങ്കുകളിൽ നിന്നും ജീവനക്കാർക്കു നൽകി വരുന്ന ഓവർഡ്രാഫ്റ്റ് പരിധി വർദ്ധിപ്പിക്കുന്നതു സംബന്ധിച്ച്**

സൂചന : **1. രജിസ്ട്രാറുടെ 9.12.1996 ലെ സി.പി. (2) 28462/96 നമ്പർ കത്ത്**
2. രജിസ്ട്രാറുടെ 24.10.86 ലെ സി.പി. (4) 33383/86 നമ്പർ കത്ത്
3. 21.7.04 ൽ ബഹു. സഹകരണ വകുപ്പു മന്ത്രി വിളിച്ചു കൂട്ടിയ പ്രാഥമിക സഹകരണ സംഘം ജീവനക്കാരുടെ യോഗ തീരുമാനം

സഹകരണ സംഘം ജീവനക്കാർക്ക് സൂചന 1 പ്രകാരം അനുവദിച്ചു നൽകിയിട്ടുണ്ടായിരുന്ന ഓവർഡ്രാഫ്റ്റ് പരിധി 25,000/ രൂപ ഇന്നത്തെ സാഹചര്യത്തിൽ വളരെ അപര്യാപ്തമാണെന്ന് കണ്ടതിനാലും ആയതിന്റെ പരിധി ഉയർത്തണമെന്ന് പ്രാഥമിക വായ്പാ സഹകരണ സംഘം ജീവനക്കാരുടെ സംഘടനാ പ്രതിനിധികളുടെ ആവശ്യം പരിഗണിച്ച് ബഹു. സഹകരണ വകുപ്പു മന്ത്രി 21.7.04 ൽ വിളിച്ചു കൂട്ടിയ പ്രാഥമിക സഹകരണ സംഘം ജീവനക്കാരുടെ സംഘടനാ പ്രതിനിധികളുടെ യോഗത്തിൽ ജീവനക്കാരുടെ ഓവർഡ്രാഫ്റ്റ് പരിധി 50,000 രൂപയായി വർദ്ധിപ്പിക്കുവാൻ സൂചന 3 പ്രകാരം തീരുമാനിക്കുകയുണ്ടായി. പ്രസ്തുത തീരുമാനത്തിന്റെ അടിസ്ഥാനത്തിൽ രജിസ്ട്രാറുടെ 24.10.96 ലെ സി.പി. (4) 33383/86 നമ്പർ കത്തിലെ വ്യവസ്ഥകൾക്കു വിധേയമായി പ്രാഥമിക കാർഷിക / കാർഷികേതര വായ്പാ സഹകരണ ബാങ്കുകൾ ജോയിന്റ് രജിസ്ട്രാറുടെ അംഗീകാരത്തിനായി തയ്യാറാക്കി

സമർപ്പിക്കുന്ന ഉപനിബന്ധനകളിൽ ഓവർഡ്രാഫ്റ്റിന്റെ പരമാവധി തുക 50,000/ രൂപയായി നിശ്ചയിച്ചു നൽകാവുന്നതാണെന്ന് അറിയിക്കുന്നു. ഇപ്രകാരം ഉപനിബന്ധനകൾക്കു അംഗീകാരം നൽകുമ്പോൾ ഓവർഡ്രാഫ്റ്റിന്റെ പലിശ നിരക്ക് സ്ഥിരനിക്ഷേപങ്ങൾക്കു സംഘം സ്വീകരിക്കുന്ന കൂടിയ പലിശ നിരക്കിൽ നിന്നും രണ്ടു ശതമാനം കുറച്ചു നൽകുന്ന കാര്യവും പരിഗണിക്കേണ്ടതാണ്.

താങ്കളുടെ വിശ്വസ്തൻ
സഹകരണസംഘം രജിസ്ട്രാർക്കു വേണ്ടി

No. CLT (4) 53537/2008 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, dated 20.9.2004

CIRCULAR No. 35/04

Sub**:- Disbursement of Long Term Loans – Simplification of procedure – Modification –Regarding.**

Read **: 1. This office circular No.39/30 dated: 30.12.1980**
2. This office circular No.21/86 dated : 07.06.1986
3. This office circular No. 40/36 dated : 28.09.1986
4. This office circular No. 22/94 dated: 14.07.1994
5. This office circular No. 42/99 dated: 03.11.1999
6. This office circular No. 26/04 dated: 22.07.2004

As per the circulars cited 1 to 6 the ceiling was fixed for the valuation of security properties/hypotheca by the Senior supervisors. Agricultural officers and the Assistant Registrars/Valuation officers working in the primary co-operative Agricultural and Development Banks in the State.

In the circular read as 6th above it is specified that the senior supervisors of the Primary Agricultural and Rural Development Banks are authorised to value security properties in respect of Loan application up to and including Rs.20,000/-. But it is noticed that the limit of valuation to be done by the Senior supervisors of the Bank was enhanced to Rs.30,000 vide reference fifth cited In order to rectify by the mistake the para mentioned as 2(4) with the: heading "Valuation" in circular No.26/04 is modified as follows.

Valuation :- The supervisors of the Primary Agricultural and Rural Development Banks are authorised to value security properties in respect of loan application up to and including Rs.30,000/-. The Agricultural officers working in the Banks are authorised to value security properties/hypotheca up to Rs.2 lakhs, and the valuation of security properties/hypotheca in respect of loan application above Rs.2 lakhs are authorised to the Assistant Registrar/Valuation officer from Co-operative Department.

The modification will have effect from the date of 17.12.04.

K. Kesavan,
Registrar of Co-operative Societies in Charge

നമ്പർ സി.ജി. (2) 24497/2004 സഹകരണസംഘം രജിസ്ട്രാറാഫീസ്,
തിരുവനന്തപുരം, തീയതി 28.9.2004

സർക്കുലർ നമ്പർ 37/2004

വിഷയം : **കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം) ആക്ട് – 2001 – വയനാട് ജില്ല – കാർഷിക കടങ്ങൾക്ക് പലിശ ബാദ്ധ്യത – ഗവൺമെന്റ് ഏറ്റെടുക്കുന്നത് – കർഷകർക്ക് പലിശ ഇളവ് – നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : ജി.ഒ. (എം.എസ്.) 255/2004/റവന്യൂ തീയതി 03–08–2004

സൂചന ഒന്നിലെ ഉത്തരവ് പ്രകാരം വയനാട് ജില്ലയിലെ കർഷകർ എടുത്തിട്ടുള്ള 50,000/– രൂപ വരെയുള്ള വായ്പകൾക്ക് മൂന്ന് വർഷത്തേക്ക് പലിശ ബാദ്ധ്യ ഗവൺമെന്റ് ഏറ്റെടുക്കുവാനും, അതാത് ബന്ധപ്പെട്ട ബാങ്കുകൾക്ക് കൊടുത്തു തീർക്കുവാനും, പലിശ ബാദ്ധ്യത ഗവൺമെന്റ് ഏറ്റെടുത്തുകൊണ്ട് കർഷകർക്ക് പലിശയിളവ് നൽകാനും തീരുമാനിച്ചുകൊണ്ട് ഉത്തരവ് പുറപ്പെടുവിച്ചിട്ടുണ്ട്. ആയതിന്റെ അടിസ്ഥാനത്തിൽ ചുവടെ പറയുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

(1) 2001 – ലെ കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം) ആക്ടിന്റെ തുടർച്ചയായി 2001 ലെ ടി ആക്ടിൽ കർഷകൻ എന്ന നിർവ്വചനത്തിൽ (വകുപ്പ് 2 (11) വരുന്ന വ്യക്തിക്ക് 01–04–2001 മുതൽ 31–03–2004 വരെയുള്ള കാലയളവിൽ, പ്രസ്തുത ആക്ടിലെ കടം എന്ന നിർവ്വചനപ്രകാരമുള്ള സ്ഥാപനങ്ങളിൽ നിന്ന് എടുത്തിട്ടുള്ളതും, ടി കാലയളവിൽ നിലനിൽക്കുന്നതും, ടി കാലയളവിനുള്ളിൽ അടച്ചു തീർന്നിട്ടുള്ളതും, ഇപ്പോഴും ബാക്കി നിൽക്കുന്നതുമായ കാർഷിക കടങ്ങൾക്ക് മാത്രം 01–04–2001 മുതൽ 31–03–2004 വരെയുള്ള മൂന്ന് വർഷത്തേക്ക് പലിശ ബാദ്ധ്യത ഗവൺമെന്റ് ഏറ്റെടുക്കുന്നതും, കർഷകർക്ക് പലിശയിളവ് നൽകുന്നതും ആയിരിക്കും. മേൽ കാലാവധിക്ക് ശേഷം ബാക്കി നിൽക്കുന്ന മുതലും പലിശയും യുക്തിസഹജമായ രീതിയിൽ 2001 ലെ കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം) ആക്ട് വകുപ്പ് 4 പ്രകാരം പുന ക്രമീകരിക്കാവുന്നതാണ്.

(2). 01–04–2001 മുതൽ 31–03–2004 വരെയുള്ള കാലയശവിൽ പലിശയും പിഴപ്പലിശയും ഇളവ് അനുവദിക്കുന്നതാണ്.

(3). ടി കാലയളവിൽ പലിശയും പിഴപ്പലിശയും നൽകുന്നതിൽ വരുന്ന നഷ്ടം സർക്കാർ റീ–ഇംബേഴ്സ് ചെയ്യുന്നതാണ്.

(4) ഒരു കർഷകൻ ഒറ്റ ഇടപാടിൻ കീഴിൽ വാങ്ങിയ 50,000/– രൂപയിൽ കവിയാത്ത വായ്പക്ക് മാത്രമേ ഈ അർഹതയുണ്ടായിരിക്കുകയുള്ളൂ.

(5). 01–04–2001 മുതൽ 31–03–2004 വരെ എടുത്തിട്ടുള്ള വായ്പകൾ തിരിച്ചടച്ച് വായ്പാകണക്ക് അവസാനിപ്പിച്ചിട്ടുണ്ടെങ്കിൽ തുക തിരികെ നൽകുകയോ, വായ്പക്കാരന്റെ പേരിൽ നിലവിലുള്ള മറ്റ് വായ്പകളിൽ തട്ടിക്കിഴിക്കുകയോ ചെയ്യാവുന്നതാണ്.

(6). 2001 –ലെ കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം) നിയമ പ്രകാരം 29–12–2001 മുതൽ മുന്നോട്ട് 6 മാസത്തേക്ക് ആനുകൂല്യം ലഭിച്ചവർക്ക്, ടി കാലയളവിലേക്ക് ആനുകൂല്യം ലഭിക്കുന്നതല്ല.

(7). 2001 ലെ കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം) നിയമ പ്രകാരം (09–06–2004 ലെ ജി.ഒ. (എം. എസ്) 194/2004 റവന്യൂ) 29–12–2001 ന് ശേഷം നൽകിയിട്ടുള്ള വായ്പകൾക്ക് 23–01–2004 മുതൽ ഒരു വർഷത്തേക്ക് അനുവദനീയ മായ മൊറട്ടോറിയം കാലയളവിൽ പലിശയിളവ് ലഭിക്കുന്നുണ്ടെങ്കിൽ ടി കാലയളവി ലേക്ക് അനുകൂല്യത്തിന് അർഹതയുണ്ടായിരിക്കുന്നതല്ല.

സൂചന പ്രകാരമുള്ള ആനുകൂല്യങ്ങൾക്ക്, സംഘങ്ങൾ താഴെ പറയുന്ന നടപടി ക്രമങ്ങൾ പാലിക്കേണ്ടതാണ്.

ഈ പദ്ധതി അനുസരിച്ച് ആനുകൂല്യം ലഭിക്കേണ്ട കർഷകൻ ടി ആക്ടിലെ ചട്ടം 5(1) അനുസരിച്ച്, കടം എടുത്തിട്ടുള്ള സഹകരണസംഘത്തിന് 15–10–2004 നകം അപേക്ഷ നൽകണം. ടി അപേക്ഷയിൽ കർഷകനാണെന്ന് തെളിയിക്കുന്ന രേഖകൾ, സഹകരണ സംഘത്തിന് നൽകേണ്ട കൃത്യമായ തുക, ഗഡുക്കളായി വിടുന്നതിന് ഉദ്ദേശിക്കുന്ന കാലാവധി എന്നിവ ചട്ടം 5 (2) പ്രകാരം ഉൾപ്പെടുത്തിയിരിക്കണം. അപേക്ഷകൻ കർഷകനാണെന്നും, അടയ്ക്കേണ്ട കടം കാർഷിക കടമാണെന്ന കാര്യവും പരിശോധിക്കേണ്ടത് ചട്ടം 5 (3) പ്രകാരം സഹകരണ സംഘത്തിന്റെ ചുമ തലയാണ്. യോഗ്യമായ അപേക്ഷകൾക്ക്, നിയമത്തിന്റെ ആനുകൂല്യങ്ങൾ നൽകി കൊണ്ട് സഹകരണസംഘം ചട്ടം 5 (4) പ്രകാരം അപേക്ഷ ലഭിച്ച് ഒരാഴ്ചക്കകം തീരു മാനം എടുക്കണം. ഇങ്ങനെ എടുത്ത തീരുമാനങ്ങൾ ചട്ടം 5 (5) അനുസരിച്ച് 15 ദിവ സത്തിനുള്ളിൽ വയനാട് ജില്ലാ ജനറൽ വിഭാഗം സഹകരണ സംഘം ജോയിന്റ് രജി സ്ട്രാർക്കും, ജില്ലാ കളക്ടർക്കും എത്തിച്ചിരിക്കേണ്ടതാണ്.

ഈ നിയമത്തിന്റെ ആനുകൂല്യങ്ങൾ സഹകരണസംഘം നിഷേധിച്ചിരുന്നു എന്ന് ബോധ്യമുള്ള കർഷകർക്ക് ചട്ടം 6(1) അനുസരിച്ച് ജില്ലാ കളക്ടർക്ക 30 ദിവ സത്തിനകം 5 രൂപാ കോർട്ട് ഫീസ് സ്റ്റാംപ് പതിച്ച് അപേക്ഷയിൽ അപ്പീൽ നൽകാം.

കർഷകർക്ക് ആനുകൂല്യങ്ങൾ നൽകിയത് മൂലം ഉണ്ടാകുന്ന പലിശ നഷ്ടം സർക്കാരിൽ നിന്നും തിരികെ ലഭിക്കുന്നതിനായി ചട്ടം 7 (1) ൽ പറയുന്ന തരത്തിൽ ജില്ലാ സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) ക്ക് ഒരാഴ്ചക്കകം അപേക്ഷ നൽകണം. അപേക്ഷയോടൊപ്പം ഈ സർക്കുലറിനോടൊപ്പമുള്ള നിർദ്ദിഷ്ട പ്രൊഫോർമയിൽ വിവരങ്ങളും ഉൾപ്പെടുത്തണം. ടി അപേക്ഷയും സ്റ്റേറ്റ്മെന്റും സഹ കരണസംഘം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) പരിശോധിച്ച് ശുപാർശ സഹിതം ജില്ലാ കളക്ടർക്ക് ചട്ടം 7 (3) പ്രകാരം ഒരാഴ്ചക്കകം സമർപ്പിക്കേണ്ടതാണ്. ഇങ്ങനെ നൽകുന്ന അപേക്ഷ/സ്റ്റേറ്റ്മെന്റ് എന്നിവയിൽ പലിശ ഇളവ് നൽകിയ അപേക്ഷകന്റെ പേരും മേൽവിലാസവും ഓരോരുത്തർക്കും പലിശ ഇനത്തിൽ നൽകിയ തുകയും സംബന്ധിച്ച പൂർണ്ണവിവരം ഉണ്ടായിരിക്കണം. ഈ നിയമത്തിന്റെ പരിധിയിൽ വരുന്ന കർഷകൻ തന്റെ കടത്തിന് നൽകേണ്ടതായ പലിശ വകുപ്പ് 5 (1) ൽ പറയുന്ന തര ത്തിൽ ആയിരിക്കും.

ഈ നിയമത്തിന്റെ പരിധിയിൽ വരുന്ന കർഷകനെ തന്റെ കടബാദ്ധ്യതയിൽ നിന്ന് പരമാവധി തൽക്കാലിക ആശ്വാസം ലഭിക്കുന്നതിനും, അർഹരായ ഗുണഭോ ക്താക്കളെ തിരഞ്ഞെടുക്കുന്നതിനും വയനാട് ജനറൽ വിഭാഗം സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർ പ്രത്യേകം ശ്രദ്ധിക്കേണ്ടതാണ്. ആനുകൂല്യത്തിന് അർഹതയുള്ള കർഷകൻ കടം എടുത്തിട്ടുള്ള സഹകരണ സംഘങ്ങളിൽ നിന്നും ലഭിക്കുന്ന അപേ ക്ഷയിൽ നിന്നും ഈ സർക്കുലറിൽ അനുബന്ധമായി ചേർത്തിരിക്കുന്ന പ്രൊഫോർമ

യിൽ കർഷകരുടെ എണ്ണം, മറ്റു വിവരങ്ങൾ എന്നിവ ഉൾക്കൊള്ളിച്ച് ഒരു പട്ടിക തയ്യാറാക്കി ആ ഓഫീസിലേക്ക് അയച്ചുതരേണ്ടതാണ്. സഹകരണസംഘത്തിന് നഷ്ടപ്പെടുന്ന പലിശ തിരികെ ലഭിക്കുന്നതിന് വയനാട് ജില്ലാ ജനറൽ വിഭാഗം സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ എല്ലാ നടപടികളും ത്വരിതഗതിയിൽ നിർവ്വഹിക്കേണ്ടതാണെന്നും ഓർമ്മിപ്പിക്കുന്നു.

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്

നമ്പർ : സി.ജി. (2) 15019/04 സഹകരണസംഘം രജിസ്ട്രാറാഫീസ്,
തിരുവനന്തപുരം, തീയതി 31–12–2004

സർക്കുലർ നമ്പർ 49/04

വിഷയം : **വരൾച്ച 2004 (ഹ്രസ്വകാല വായ്പകൾ മദ്ധ്യകാല വായ്പകളായും മദ്ധ്യകാലവായ്പകളുടെ തവണകൾ പ്രത്യേക മദ്ധ്യകാല വായ്പകളായി മാറ്റുന്നതും) നടപടികൾ സ്വീകരിക്കുന്നത് – കാലാവധി ദീർഘിപ്പിച്ചു കൊണ്ട് ഉത്തരവാകുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 15–04–2004 ലെ 16/2004–ാം നമ്പർ സർക്കുലർ**

2. സഹകരണസംഘം രജിസ്ട്രാറുടെ 30–07–2004 ലെ 29/2004 –ാം നമ്പർ സർക്കുലർ

3. സഹകരണസംഘം രജിസ്ട്രാറുടെ 30–09–04 ലെ 40/2004 നമ്പർ സർക്കുലർ

വരൾച്ച 2004 നെതുടർന്ന് ഹ്രസ്വകാല വായ്പകൾ മധ്യകാല വായ്പകളായും, മധ്യകാലവായ്പകളുടെ തവണകൾ പ്രത്യേക മധ്യകാലവായ്പകളായും മാറ്റുന്നതിനുള്ള സമയപരിധി സൂചന (3) ലെ 1–ാം ഖണ്ഡികയിൽ പരാമർശിച്ചിരുന്നു. എന്നാൽ സമയപരിധിക്കുള്ളിൽ അർഹരായ എല്ലാ അംഗങ്ങളുടെയും വായ്പകൾ മധ്യകാല വായ്പകളാക്കി മാറ്റുന്നതിനും ജില്ലാ/സംസ്ഥാന സഹകരണ ബാങ്കുകളിൽ അപേക്ഷകൾ സമർപ്പിക്കുന്നതിനും പുനർ വായ്പാ അനുവദിക്കുന്നതിനുമുള്ള നടപടികൾ പൂർത്തിയാക്കാൻ കഴിഞ്ഞിട്ടില്ലായെന്ന് മനസ്സിലാക്കിയതിന്റെ അടിസ്ഥാനത്തിൽ സൂചന (3) പ്രകാരം പുറപ്പെടുവിച്ച സർക്കുലറിലെ സമയകാല പരിധി 2005 ജനുവരി 31 വരെ ദീർഘിപ്പിച്ച് ഉത്തരവാകുന്നു.

എല്ലാ ജോയിൻറ് രജിസ്ട്രാർ(ജനറൽ)മാരും തങ്ങളുടെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സംഘങ്ങൾക്കും ഉദ്യോഗസ്ഥന്മാർക്കും ഈ വിവരം നൽകേണ്ടതും അവർ ഈ നിർദ്ദേശങ്ങൾ നടപ്പിലാക്കുന്നുണ്ടെന്നും, അർഹരായ എല്ലാ കർഷകർക്കും സൂചന (1) നിർദ്ദേശിച്ചിരിക്കുന്ന പ്രകാരമുള്ള ആനുകൂല്യങ്ങൾ ലഭിച്ചിട്ടുണ്ടെന്നും ഉറപ്പ് വരുത്തേണ്ടതുമാണ്.

കെ. കേശവൻ

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ സി.ബി. (1) 1479/03 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 31–12–2004

സർക്കുലർ നമ്പർ 50/04

വിഷയം : **സഹകരണവകുപ്പ് – സംസ്ഥാനത്തെ വായ്പാ സഹകരണ സംഘ**

ങ്ങൾ ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതി – കാലാവധി ദീർഘിപ്പിക്കുന്നത് സംബന്ധിച്ച്

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 15/04, 28/04, 42/04 നമ്പർ സർക്കുലറുകൾ**

2. സഹകരണസംഘം രജിസ്ട്രാറുടെ 39/03, 11/04 നമ്പർ സർക്കുലറുകൾ

സഹകരണവകുപ്പിന്റെ ഭരണ നിയന്ത്രണത്തിലുള്ള വായ്പ സംഘങ്ങളിൽ സൂചന ഒന്നു പ്രകാരം നടപ്പിലാക്കി വന്നിരുന്ന ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ കാലാവധി 2004 ഡിസംബർ 31 ന് അവസാനിക്കുകയാണ്. പദ്ധതിയുടെ കാലാവധി വീണ്ടും ദീർഘിപ്പിക്കണമെന്ന് സഹകാരികളിൽ നിന്ന്, ആവശ്യമുയർന്നത് കണക്കിലെടുത്തും പ്രകൃതി ക്ഷോഭം മൂലം വായ്പക്കാർക്കുണ്ടായിട്ടുള്ള ബുദ്ധിമുട്ടുകൾ കണക്കിലെടുത്തും, സംസ്ഥാന സഹകരണ ബാങ്കിലും, ജില്ലാ സഹകരണ ബാങ്കിലും പ്രാഥമിക സഹകരണ അർബൻ ബാങ്കിലും മറ്റു വായ്പാ സഹകരണ സംഘങ്ങളിലും ടി പദ്ധിതി വീണ്ടും ദീർഘിപ്പിക്കേണ്ടത് ആവശ്യമാണെന്ന് ബോദ്ധ്യപ്പെട്ടിട്ടുണ്ട്. അതിനാൽ സംസ്ഥാനത്തെ വായ്പാ സഹകരണ സംഘങ്ങളിൽ നടപ്പിലാക്കി വരുന്ന ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ കാലാവധി 31–03–2005 വരെ ദീർഘിപ്പിച്ചു കൊണ്ട് ഉത്തരവാകുന്നു. സഹകരണസംഘം രജിസ്ട്രാറുടെ 15/04 നമ്പർ സർക്കുലറിലെ മാർഗ്ഗ നിർദ്ദേശങ്ങൾക്ക് യാതൊരു മാറ്റവുമില്ലാതെ അതേപടി തുടരുകയാണ്. നബാർഡ് മാർഗ്ഗനിർദ്ദേശങ്ങൾക്ക് വിധേയമായി സംസ്ഥാന സഹകരണ ബാങ്കുകളും, ജില്ലാ സഹകരണ ബാങ്കുകളും നിഷ്ക്രിയ ആസ്തി കുറയ്ക്കുന്നതിന്റെ ഭാഗമായി കുടിശിഖ വായ്പകൾ ഈടാക്കുന്നതിന് സ്പെഷ്യൽ റിക്കവറി സ്കീം രജിസ്ട്രാറുടെ അംഗീകാരത്തോടുകൂടി നടപ്പിലാക്കുന്നതിന് അനുവദിച്ചിരിക്കുന്നു.

സഹകരണസംഘം രജിസ്ട്രാറുടെ നിയന്ത്രണത്തിൽ സംസ്ഥാനത്ത് പ്രവർത്തിക്കുന്ന പ്രാഥമിക സഹകരണ അർബൻ ബാങ്കുകളിൽ സൂചന രണ്ട് പ്രകാരം നടപ്പാക്കി വന്നിരുന്ന ഒറ്റത്തവണ തീർപ്പാക്കൽ പദ്ധതിയുടെ കാലാവധി 2004 ഒക്ടോബർ 31 ന് അവസാനിച്ചിട്ടുണ്ട്. പ്രസ്തുത കാലാവധിക്ക് ശേഷവും നിഷ്ക്രിയ ആസ്തിയായി നിൽക്കുന്ന വായ്പകൾ അടച്ചു തീർക്കുന്നതിന് തദ്ദാര എൻ.പി.എ. കുറക്കുന്നതിനും സൂചന രണ്ടിലെ സർക്കുലറുകളിലെ മർഗ്ഗനിർദ്ദേശങ്ങൾക്കു വിധേയമായി സ്പെഷ്യൽ റിക്കവറി സ്കീം ജോയിന്റ് രജിസ്ട്രാർ/രജിസ്ട്രാരുടെ അംഗീകാരത്തോടെ 31–03–2005 വരെ നടപ്പാക്കുന്നതിനും അർബൻ ബാങ്കുകളെയും അനുവദിക്കുന്നു.

എല്ലാ സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ ജനറൽമാരും പദ്ധതിയുടെ പുരോഗതി വിലയിരുത്തേണ്ടതും പുരോഗതി റിപ്പോർട്ട് കാലാകാലങ്ങിൽ സഹകരണ സംഘം രജിസ്ട്രാർമാർക്ക് സമർപ്പിക്കേണ്ടതുമാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ–ചാർജ്ജ്

നമ്പർ സി.ജി. (1) 31903/2004

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 03–08–2004

സർക്കുലർ നമ്പർ 30/2004

വിഷയം : **പ്രാഥമിക കാർഷിക വായ്പ സഹകരണ സംഘങ്ങൾ ഫാർമേഴ്സ് സർവ്വീസ്**

സഹകരണ ബാങ്കുകൾ, ബാങ്കിങ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരാത്ത കാർഷികേതര വായ്പാ സഹകരണ സംഘങ്ങൾ എന്നിവയിൽ നിന്നും നൽകാവുന്ന വിവിധയിനം വായ്പകളുടെ പരിധി വർദ്ധിപ്പിക്കുന്നത് സംബന്ധിച്ച്

സൂചന : **1. സഹകരണസംഘം രജിസ്ട്രാറുടെ 31–08–1995 ലെ 25/95–ാം നമ്പർ സർക്കുലർ**

2. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 25–11–1996 ലെ 29/96–ാം നമ്പർ സർക്കുലർ

3. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 25–05–1998 ലെ 18/98–ാം നമ്പർ സർക്കുലർ

4. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 03–01–2000 ലെ 3/2000–ാം നമ്പർ സർക്കുലർ

5. സഹകരണ സംഘം രജിസ്ട്രാറുടെ 02–04–2002 ലെ 11/2002–ാം നമ്പർ സർക്കുലർ

പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ ഫാർമേഴ്സ് സർവ്വീസ് സഹ കരണ ബാങ്കുകൾ, ബാങ്കിംഗ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരാത്ത കാർഷികേതര വായ്പാ സഹകരണ സംഘങ്ങൾ എന്നിവയിൽ നിന്നും അംഗങ്ങൾക്ക് നൽകാവുന്ന വിവിധ ഇനം വായ്പകളുടെ പരിധിയും, ഓഹരി അനുപാതവും നിശ്ചയിച്ചുകൊണ്ട് സൂചനയിലെ സർക്കുലറുകൾ പ്രകാരം ഉത്തരവുകൾ പുറപ്പെടുവിച്ചിരിക്കുന്നു. പ്രസ്തുത ഉത്തരവുകൾ പ്രകാരം നിശ്ചയിക്കപ്പെട്ടിരുന്ന വിവിധയിനം വായ്പകളുടെ പരിധിയും ഒരു അംഗത്തിന് പരമാവധി നൽകാവുന്ന മൊത്തം വായ്പകളുടെ പരിധിയും വർദ്ധിപ്പിക്കേണ്ട ആവശ്യം ബോദ്ധ്യം വന്നിട്ടുള്ള സാഹചര്യത്തിൽ, സംസ്ഥാനത്തെ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ, ഫാർമേഴ്സ് സർവ്വീസ് സഹകരണ ബാങ്കുകൾ, ബാങ്കിങ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരാത്ത കാർഷികേതര വായ്പാ സഹകരണ സംഘങ്ങൾ എന്നിവയിൽ നിന്നും അവയുടെ അംഗങ്ങൾക്ക് നൽകാവുന്ന വിവിധ ഇനം വായ്പകളുടെ പരിധിയും, ഒരു അംഗത്തിന് പരമാവധി നൽകാവുന്ന മൊത്തം വായ്പകളുടെ പരിധിയും പുതുക്കി നിശ്ചയിച്ചുകൊണ്ട് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

ക്രമനമ്പർ	വായ്പാ പദ്ധതി	പരമാവധി പരിധി	കാലാവധി
I	**ഉൽപ്പാദനാവശ്യങ്ങൾക്കുള്ള വായ്പ**		
1.	ഹ്രസ്വകാല– മദ്ധ്യകാല കാർഷികവായ്പകൾ	2 ലക്ഷം	ഹ്രസ്വകാലം – 1 വർഷം മദ്ധ്യകാലം – 2 വർഷം മുതൽ 5 വർഷം വരെ
2.	സ്വയം തൊഴിൽ വായ്പ	5 ലക്ഷം	5 വർഷം
3.	വ്യവസായ വായ്പകൾ	10 ലക്ഷം	5 വർഷം
4.	ഭൂസ്വത്ത് വാങ്ങുന്നതിനുള്ള വായ്പ	5 ലക്ഷം	5 വർഷം
II	**സ്വർണ്ണ പണയ വായ്പ**	3 ലക്ഷം	1 വർഷം
III	**ഉപഭോക്തൃ വായ്പകൾ**		
1.	കുട്ടികളുടെ വിദ്യാഭ്യാസത്തിന്	25,000	2 വർഷം
2.	കുട്ടികളുടെ പ്രൊഫഷണൽ വിദ്യാഭ്യാസത്തിന്	5 ലക്ഷം	5 വർഷം

3. കുടുംബാംഗങ്ങളുടെ വിവാഹ ആവശ്യത്തിന്	2 ലക്ഷം	3 വർഷം
4. കുടുംബാംഗങ്ങളുടെ ചികിത്സാ/ മരണാനന്തര ചെലവുകൾ തുടങ്ങിയവ	1 ലക്ഷം	3 വർഷം
5. താമസിക്കുന്ന വീട് നന്നാക്കുന്നതിന്	2 ലക്ഷം	5 വർഷം
6. വിദേശങ്ങളിൽ ജോലി തേടി പോകുന്നതിന്	5 ലക്ഷം	5 വർഷം
7. വീട്ടുപകരണങ്ങൾ വാങ്ങുന്നതിന്	1 ലക്ഷം	5 വർഷം
8. വാഹനങ്ങൾ വാങ്ങുന്നതിന്	10 ലക്ഷം	5 വർഷം
9. വിവിധ ആവശ്യങ്ങൾക്കുള്ള ക്യാഷ് ക്രെഡിറ്റ്	2 ലക്ഷം	1 വർഷം
10. ഭവന നിർമ്മാണ വായ്പ	5 ലക്ഷം	5/10 വർഷം

(ബൈലാ യ്ക്കും സർക്കാർ പുറപ്പെടുവിച്ചിട്ടുള്ള ഇളവുകൾക്കും വിധേയം)

IV ഒരംഗത്തിന് പരമാവധി നൽകാവുന്ന മൊത്തം വായ്പകളുടെ പരിധി

1. ഒരു കോടി രൂപ വരെ നിക്ഷേപമുള്ള സംഘങ്ങളിൽ	2 ലക്ഷം രൂപ വരെ
2. 2 കോടി രൂപ മുതൽ 3 കോടി രൂപ വരെ	3 ലക്ഷം രൂപ വരെ
3. 3 കോടി രൂപ മുതൽ 5 കോടി രൂപ വരെ	4 ലക്ഷം രൂപ വരെ
4. 5 കോടി രൂപ മുതൽ 10 കോടി രൂപ വരെ	5 ലക്ഷം രൂപ വരെ
5. 10 കോടി രൂപക്കു മേൽ നിക്ഷേപമുള്ള സംഘങ്ങളിൽ	10 ലക്ഷം രൂപ വരെ

k qN\ 4 se k Ài pe dmÂ ''പദ്ധതി വായ്പകൾ'' എന്ന ശീർഷകത്തിനു താഴെ പരാമർശിക്കപ്പെട്ടിട്ടുള്ള നിർദ്ദേശങ്ങൾ സൂചന 5 ലെ സർക്കുലർ മുഖേന ഉത്തരവ് പുറപ്പെടുവിച്ചിട്ടുള്ള ഓഹരി അനുപാതം എന്നിവ തുടർന്നും നിലനിൽക്കുന്നതാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ : സി. ജി (2) 24497/04

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 31–3–2005

സർക്കുലർ നമ്പർ 11/05

വിഷയം : **കേരള കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം) ആക്ട് – 2001 വയനാട് ജില്ല – കാർഷിക കടങ്ങൾക്ക് പലിശ ബാദ്ധ്യത – ഗവൺമെന്റ് ഏറ്റെടുക്കുന്നത് – കാർഷകർക്ക് പലിശ ഇളവ് – നിർദ്ദേശങ്ങൾക്ക് പുറപ്പെടുവിക്കുന്നത് – സംബന്ധിച്ച്**

സൂചന : **1). സഹകരണസംഘം രജിസ്ട്രാറുടെ 28–09–2004 ലെ 37/04–ാം നമ്പർ സർക്കുലർ**
2). 18–03–2005 ലെ 1958/സി3/05/സഹ. നമ്പർ സർക്കാർ കത്ത്

സൂചന (1) സർക്കുലർ രണ്ടാമത്തെ പേരിൽ ഖണ്ഡിക 7–നു താഴെ ''ഈ പദ്ധതി അനുസരിച്ച്'' എന്നു തുടങ്ങുന്ന ഖണ്ഡിക, സൂചന (2) ലെ നിർദ്ദേശത്തിന്റെ അടിസ്ഥാനത്തിൽ താഴെ പരാമർശിക്കുന്ന രീതിയിൽ മാറ്റം വരുത്തി നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു. ''ഈ പദ്ധതി അനുസരിച്ച് ആനുകൂല്യം ലഭിക്കേണ്ട കർഷകർ ടി ആക്ടിലെ ചട്ടം 5 (1) അനുസരിച്ച് കടം എടുത്തിട്ടുള്ള സഹകരണ സംഘത്തിന് 15 –10–04 നകം അപേക്ഷ നൽകണം. ടി അപേക്ഷയിൽ സഹകരണ സംഘത്തിന്

നൽകേണ്ട കൃത്യമായ തുക, ഗഢുക്കളായി വീട്ടുന്നതിന് ഉദ്ദേശിക്കുന്ന കാലാവധി എന്നിവ ചട്ടം 5 (2) പ്രകാരം ഉൾപ്പെടുത്തിയിരിക്കണം. അപേക്ഷകൻ കർഷകനാണെന്നും അടക്കേണ്ട കടം കാർഷിക കടമാണെന്ന കാര്യവും പരിശോധിക്കേണ്ടത് ചട്ടം 5 (3) പ്രകാരം സഹകരണ സംഘത്തിന്റെ ചുമതലയാണ്. യോഗ്യമായ അപേക്ഷകൾക്കു നിയമത്തിന്റെ ആനുകൂല്യങ്ങൾ നൽകിക്കൊണ്ട് സഹകരണ സംഘം ചട്ടം 5 (4) പ്രകാരം അപേക്ഷ ലഭിച്ച് ഒരാഴ്ചക്കകം തീരുമാനം എടുക്കണം. ഇങ്ങനെ എടുത്ത തീരുമാനങ്ങൾ ചട്ടം 5 (5) അനുസരിച്ച് 15 ദീവസത്തിനുള്ളിൽ വയനാട് ജില്ല ജനറൽ വിഭാഗം സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർക്കും ജില്ലാ കളക്ടർക്കും എത്തിച്ചിരിക്കേണ്ടതാണ്.''

കെ. കേശവൻ

സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ : സി. ജി (2) 29567/2004

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 31–12–2004

സർക്കുലർ നമ്പർ 46/2004

വിഷയം : **സഹകരണ വകുപ്പ് – സംസ്ഥാനത്തെ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ – കാർഷിക ഗ്രാമ വികസന ബാങ്കുകൾ – മറ്റ് കാർഷിക സഹകരണ സംഘങ്ങൾ – കാർഷിക വിതരണം ഊർജ്ജിത പ്പെടുത്തുന്നത് സംബന്ധിച്ച് – നടപടികൾ സ്വീകരിക്കുന്നത്–സംബന്ധിച്ച്.**

സൂചന : **1. രജിസ്ട്രാറുടെ 34/2004 നമ്പർ സർക്കുലർ**
2. രജിസ്ട്രാറുടെ 17/98 നമ്പർ സർക്കുലർ
3. രജിസ്ട്രാറുടെ 6/99 നമ്പർ സർക്കുലർ

സൂചന (1) ലെ സർക്കുലറിൽ, സംസ്ഥാനത്തെ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ കാർഷിക വായ്പാ വിതരണം ചെയ്യുന്നതിൽ ഊർജ്ജിതമായ നടപടികൾ സ്വീകരിക്കണമെന്ന് നിർദ്ദേശിച്ചിരുന്നു. ലഭ്യമായ കണക്കുകൾ പ്രകാരം, സംസ്ഥാനത്ത് പ്രവർത്തിക്കുന്ന പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണസംഘങ്ങളിൽ പത്ത് ശതമാനത്തോളം വരുന്ന സഹകരണ സംഘങ്ങൾ, കാർഷിക വായ്പ വിതരണം ചെയ്യുന്നതിൽ വിമുഖത കാണിക്കുകയോ, നാമമാത്രമായ വായ്പ വിതരണം ചെയ്യുന്നവയോ ആണെന്ന് കണക്കുകൾ സൂചിപ്പിക്കുന്നു. സഹകരണ വകുപ്പ് ഉദ്യോഗസ്ഥന്മാരാകട്ടെ, കാർഷിക വായ്പാ സംഘങ്ങൾ കാർഷിക വായ്പ വിതരണം ചെയ്യുന്നുണ്ടോ, വായ്പാ വിതരണം കുറയുന്നുണ്ടോ, വിതരണം ചെയ്യാത്തതിനു/കുറയുന്നതിന് കാരണം എന്താണെന്നോ, പരിശോധിക്കുകയോ, വിലയിരുത്തുകയോ ചെയ്യുന്നില്ല.

ഈ സ്ഥിതി തുടരാൻ അനുവദിക്കുന്നത് ആശാസ്യമല്ലെന്നും, സംസ്ഥാനത്തെ സഹകരണ വായ്പാ സംഘങ്ങളുടെ പ്രവർത്തനത്തെ ബാധിക്കുമെന്നും, സംഘങ്ങളുടെ ഉദ്ദേശ ലക്ഷ്യത്തെത്തന്നെ പരാജയപ്പെടുത്തുന്നതുമാണെന്നു കാണുന്നു. താലൂക്ക് തലത്തിൽ തന്നെ എല്ലാ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങളുടെയും, കാർഷിക ഗ്രാമവികസന ബാങ്കുകളുടെയും വായ്പാ പ്രവർത്തനങ്ങൾ ഓരോ മാസവും വിലയിരുത്തുന്നതിന് സൂചന 2 പ്രകാരം നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിച്ചിരുന്നുവെങ്കിലും നിർദ്ദേശങ്ങൾ ഫലപ്രദമായി നടപ്പിലാക്കുന്നതിൽ വീഴ്ചയുണ്ടാകുന്നതായി ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. ടി പോരായ്മ പരിഹരിക്കുന്നതിനും, ഊർജ്ജിത നടപടികൾ സ്വീകരിക്കുന്നതിനായി ചുവടെ പരാമർശിക്കുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. എല്ലാ മാസവും 15–ാം തീയതിക്കു മുമ്പ് ഓരോ താലൂക്കിലെയും പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങളുടെയും/ബാങ്കുകളുടെയും, കാർഷിക ഗ്രാമ വികസന ബാങ്കുകളുടെയും യോഗങ്ങൾ, ജനറൽ വിഭാഗം അസിസ്റ്റന്റ് രജിസ്ട്രാർ നിർബന്ധമായും വിളിച്ചു ചേർക്കേണ്ടതാണ്. എല്ലാ മാസവും ഒരു പ്രത്യേക തീയതി ഇതിനായി നിശ്ചയിക്കുന്നതായിരിക്കും അഭികാമ്യം.

2. യോഗത്തിൽ എല്ലാ കാർഷിക വായ്പാ സംഘങ്ങളുടെയും, കാർഷിക ഗ്രാമവികസന ബാങ്കുകളുടെയും സെക്രട്ടറിമാർക്ക് പങ്കെടുക്കുവാൻ അസിസ്റ്റന്റ് രജിസ്ട്രാർ അറിയിപ്പ് നൽകേണ്ടതും യോഗത്തിൽ ഒഴിച്ചു കൂടാൻ കഴിയാത്ത സാഹചര്യത്തിൽ സെക്രട്ടറിക്ക് പങ്കെടുക്കാൻ കഴിയില്ലെങ്കിൽ തൊട്ടു താഴെയുള്ള ഉദ്യോഗസ്ഥനെ യോഗത്തിൽ പങ്കെടുക്കാൻ സംഘം നിയോഗിക്കേണ്ടതുമാണ്.

3. യോഗത്തിൽ പങ്കെടുക്കുന്നവർക്ക് അതാതു സ്ഥാപനങ്ങളെ സംബന്ധിച്ച് ഇതോടൊപ്പമുള്ള പ്രൊഫോർമയിൽ വിവരങ്ങൾ നൽകേണ്ടതാണ്.

4. അതാത് താലൂക്കുകളിലെ ജില്ലാ ബാങ്ക് ശാഖാ മാനേജർമാർ, എക്സിക്യൂട്ടീവ് ഓഫീസർമാരെ കൂടി യോഗത്തിൽ പങ്കെടുക്കുവാൻ അറിയിപ്പ് നൽകേണ്ടതും, അവരെ നിയോഗിക്കാൻ ജില്ലാ ബാങ്ക് ജനറൽ മാനേജർമാർക്കും അറിയിപ്പ് നൽകേണ്ടതാണ്.

5. 'നബാർഡ്' ജില്ലാ ഡവലപ്മെന്റ് ആഫീസർക്ക് കൂടി യോഗത്തിൽ പങ്കെടുക്കാൻ അറിയിപ്പ് നൽകേണ്ടതാണ്.

6. യോഗത്തിൽ എല്ലാ യൂണിറ്റ് ഇൻസ്പെക്ടർമാരും, എ ആന്റ് ഇ ഇൻസ്പെക്ടർമാരും, സ്പെഷ്യൽ സെയിൽസ് ആഫീസർമാരും നിർബന്ധമായും പങ്കെടുക്കേണ്ടതാണ്. ഹാജരാകാത്ത ഇൻസ്പെക്ടറുടെ പേരുവിവരം രജിസ്ട്രാർക്ക് റിപ്പോർട്ട് ചെയ്യേണ്ടതാണ്.

7. യോഗത്തിന്റെ മിനിട്സ് അസിസ്റ്റന്റ് രജിസ്ട്രാർ പ്രത്യേക രജിസ്റ്ററിൽ എഴുതി സൂക്ഷിക്കേണ്ടതും, ആയത് രജിസ്ട്രാറോ ഉത്തരവാദപ്പെട്ട മേലുദ്യോഗസ്ഥരോ പരിശോധനയ്ക്ക് ആവശ്യപ്പെടുന്ന വേളയിൽ സമർപ്പിക്കേണ്ടതുമാണ്.

8. കാർഷിക ഗ്രാമ വികസന ബാങ്ക് സെക്രട്ടറി, അസിസ്റ്റന്റ് രജിസ്ട്രാർ/ വാല്യൂവേഷൻ ആഫീസർ, ബാങ്കിന്റെ സെയിൽ ആഫീസർ എന്നിവരും യോഗത്തിൽ പങ്കെടുക്കാൻ നിർദ്ദേശിക്കേണ്ടതാണ്.

9. യോഗത്തിൽ വ്യക്തമായ അജണ്ട ഉണ്ടാവേണ്ടതും, സംഘങ്ങളിലെ വായ്പാ വിതരണവുമായി ബന്ധപ്പെട്ട എല്ലാ കാര്യങ്ങളും ചർച്ച ചെയ്യേണ്ടതും കാർഷിക വായ്പകൾ കൂടുതൽ വിതരണം ചെയ്യുന്നതിനുള്ള നടപടികൾ ചർച്ച ചെയ്യേണ്ടതും ഫലവത്തായി വിലയിരുത്തേണ്ടതുമാണ്. വായ്പകൾ വിതരണം ചെയ്യുന്നതിലുള്ള പ്രശ്നങ്ങൾ സംഘങ്ങൾക്ക് ജില്ലാ ബാങ്കിൽ നിന്നും പരമാവധി വായ്പകൾ ലഭിക്കുന്നതിനുള്ള നടപടികൾ, കുടിശ്ശിക ഈടാക്കുന്നതിലുള്ള പുരോഗതി എന്നിവ വിലയിരുത്തേണ്ടതാണ്. കിസാൻ ക്രെഡിറ്റ് കാർഡ്, സ്വാശ്രയ ഗ്രൂപ്പുകൾ, വികാസ വാഹിനി ക്ലബ്ബുകൾ, തുടങ്ങിയവയെ സംബന്ധിച്ച പുരോഗതിയും, സർക്കാർ ഊർജ്ജിതപ്പെടുത്തുന്നതിനുള്ള നടപടികളും, മുൻ യോഗ തീരുമാനങ്ങൾ നടപ്പിലാക്കുന്നതിലുള്ള പുരോഗതിയും സൂചന (2) ൽ പരാമർശിയ്ക്കുന്ന മറ്റു കാര്യങ്ങളും വിലയിരുത്തേണ്ടതാണ്.

10. മേൽ വിഷയങ്ങളിൽ സഹകരണ വകുപ്പ് തലത്തിൽ പരിഹാരം ആവശ്യമായവ യോഗത്തിൽ ചർച്ച ചെയ്ത് പരിഹാരം കാണേണ്ടതാണ്. രജിസ്ട്രാറുടെ ശ്രദ്ധ ആവശ്യമായ വിഷയങ്ങൾ ഈ ആഫീസിലേക്ക് അറിയിക്കേണ്ടതാണ്.

11. ഓരോ മാസവും, പ്രാഥമിക സഹകരണ സംഘങ്ങളെ സംബന്ധിച്ചുളള വിവരങ്ങൾ ഇതോടൊപ്പമുള്ള പ്രൊഫോർമയിൽ (അനുബന്ധം–1) എല്ലാ മാസവും 10–ാം തീയതിക്കകം ജില്ലയിലെ ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാർക്ക് സമർപ്പിക്കേണ്ടതാണ്.

12. സംഘങ്ങളിൽ നിന്ന് ലഭിക്കുന്ന പ്രൊഫോർമ വിവരങ്ങൾ അസിസ്റ്റന്റ് രജിസ്ട്രാറുടെ ആഫീസിൽ സൂക്ഷിക്കേണ്ടതും, ടി വിവരങ്ങൾ സഹകരണസംഘം രജിസ്ട്രാർ പരിശോധനയ്ക്കായി ആവശ്യപ്പെടുമ്പോൾ സമർപ്പിക്കേണ്ടതുമാണ്.

13. താലൂക്കിലെ വിവരങ്ങൾ ക്രോഡീകരിച്ച് അനുബന്ധം – 2 ൽ ജോയിന്റ് രജിസ്ട്രാർമാർ അതാതു മാസം പതിനഞ്ചാം തീയതിക്കകം, രജിസ്ട്രാറുടെ ആഫീസിൽ സഹകരണസംഘം അഡീഷണൽ രജിസ്ട്രാർ (ക്രെഡിറ്റ്) ടെ പേരിൽ അയക്കേണ്ടതും, ടി റിപ്പോർട്ടിനോടൊപ്പം ജോയിന്റ് രജിസ്ട്രാറുടെ വ്യക്തമായ അഭിപ്രായങ്ങളും ശുപാർശകളും കൂടി ഉൾപ്പെടുത്തേണ്ടതാണ്.

14. സമർപ്പിക്കുന്ന റിപ്പോർട്ടിലെ വിവരങ്ങൾ അങ്ങേയറ്റം കൃത്യത പാലിക്കുന്നുവെന്ന് അസിസ്റ്റന്റ് രജിസ്ട്രാറും ഉറപ്പാക്കേണ്ടതാണ്. താലൂക്ക്/ജില്ലാ തലങ്ങളിൽ നൽകുന്ന വിവരങ്ങൾ ശരിയാണോയെന്ന് പരിശോധിക്കേണ്ടതും, പരിശോധനയിൽ റിപ്പോർട്ടിലെ വിവരങ്ങൾ ശരിയല്ലെന്ന് തെളിഞ്ഞാൽ ബന്ധപ്പെട്ടവർക്കെതിരെ നടപടി സ്വീകരിക്കേണ്ടതുമാണ്.

15. താലൂക്കിലെ ആഡിറ്റ് വിഭാഗം അസിസ്റ്റന്റ് രജിസ്ട്രാർക്കും, യോഗത്തിൽ പങ്കെടുക്കുന്നതിന് അറിയിപ്പ് നൽകേണ്ടതും, കാർഷിക വായ്പാസംഘങ്ങളുടെ/ബാങ്കുകളുടെ ആഡിറ്റ് സംബന്ധമായ പ്രശ്നങ്ങൾ./പുരോഗതി എന്നിവ വിലയിരുത്തേണ്ടതുമാണ്.

16. ഓരോ ആറു മാസത്തിലൊരിക്കലും ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർ ജില്ലയിലെ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങളുടെയും, കാർഷിക വികസന ബാങ്കുകളുടെയും പ്രസിഡന്റ്/സെക്രട്ടറിമാരുടെ യോഗവും, കാർഷികേതര വായ്പ സംഘങ്ങളുടെ പ്രതിനിധികളുടെ യോഗവും പ്രത്യേകം പ്രത്യേകം വിളിച്ചു ചേർക്കേണ്ടതും, യോഗത്തിൽ ജില്ലാ ബാങ്ക് പ്രസിഡന്റ്, ജനറൽ മാനേജർ, സംസ്ഥാന സഹകരണ കാർഷിക ഗ്രാമ വികസന ബാങ്കിന്റെ റീജീയണൽ മാനേജർ എന്നിവർക്കും, നബാർഡിന്റെ ജില്ലാ ഡവലപ്മെന്റ് ആഫീസർ, ജനറൽ ഇൻഷ്വറൻസ് കോർപ്പറേഷൻ പ്രതിനിധി (വിള ഇൻഷ്വറൻസുമായി ബന്ധപ്പെട്ട കാര്യങ്ങൾ) എന്നിവർക്കും യോഗത്തിൽ പങ്കെടുക്കാൻ അറിയിപ്പ് നൽകേണ്ടതുമാണ്. ജില്ലയിലെ ജനറൽ/ആഡിറ്റ് വിഭാഗം അസിസ്റ്റന്റ് രജിസ്ട്രാർമാരോടും, ആഡിറ്റ് വിഭാഗം ജോയിന്റ് രജിസ്ട്രാർമാരേയും യോഗത്തിൽ പങ്കെടുക്കാൻ, അറിയിപ്പ് നൽകേണ്ടതാണ്.

17. അസിസ്റ്റന്റ് രജിസ്ട്രാർ (ജനറൽ), അസിസ്റ്റന്റ് രജിസ്ട്രാർ (പ്ലാനിംഗ്), സഹകരണ സംഘം ഇൻസ്പെക്ടർമാർ എന്നിവരുടെ രഹസ്യ റിപ്പോർട്ടുകൾ തയ്യാറാക്കുമ്പോൾ, ഈ സർക്കുലർ നിർദ്ദേശപ്രകാരമുള്ള നടപടികൾ സ്വീകരിക്കുന്നതിലുള്ള പ്രവർത്തനം കൂടി വിലയിരുത്തി വേണം, റിപ്പോർട്ട് തയ്യാറാക്കേണ്ടത്.

18. റിപ്പോർട്ട് അയക്കുന്ന കാര്യത്തിലും, സർക്കുലർ നിർദ്ദേശങ്ങൾ നടപ്പിലാക്കുന്നതിലും, ജോയിന്റ് രജിസ്ട്രാർ ആഫീസിലെ പ്ലാനിംഗ് വിഭാഗം അസിസ്റ്റന്റ് രജിസ്ട്രാർ നോഡൽ ആഫീസർ ആയിരിക്കും.

കെ. കേശവൻ

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

അനുബന്ധം – 1

ജില്ല :
താലൂക്ക് :

(ഏപ്രിൽ മുതൽ മാർച്ച് വരെ)

സംഘത്തിന്റെ പേര് / ബാങ്കിന്റെ പേര് :

	തൻമാസാരംഭം തുക		**തൻമാസം തുക**		**മാസാവസാനം തുക**	
ഓഹരി മൂലധനം സർക്കാർ വ്യക്തികൾ മറ്റുളളവർ അംഗങ്ങൾ						
നിക്ഷേപം സേവിംഗ്സ് ബാങ്ക് സ്ഥിര നിക്ഷേപം റിക്കറിംഗ് നിക്ഷേപം മറ്റുളളവ						
വായ്പകൾ	**എണ്ണം**	**തുക**	**എണ്ണം**	**തുക**	**എണ്ണം**	**തുക**
ഹ്രസ്വകാല കാർഷിക വായ്പ (കിസാൻ ക്രെഡിറ്റ് കാർഡ് ഉൾപ്പെടെ) മദ്ധ്യകാല കാർഷിക വായ്പ ദീർഘകാല കാർഷിക വായ്പ ഹ്രസ്വകാല കാർഷിക വായ്പ (സ്വർണ്ണത്തിന്റെഈടിന്മേൽ നൽകിയത്)						
കാർഷികേതര വായ്പ ഹ്രസ്വകാലം(ഗോൾഡ്ലോൺ ഒഴികെ) മദ്ധ്യകാലം ദീർഘകാലം ഗോൾഡ്ലോൺ						
ആകെ വായ്പ നൽകിയതിൽ പട്ടിക ജാതി /പട്ടിക വർഗ്ഗം ന്യൂനപക്ഷ സമുദായം വനിതകൾ						
ബാങ്കിൽ നിന്നും ലഭിച്ച തുക കാർഷികം കാർഷികേതരം						
കാർഷിക വികസന ബാങ്ക് കാർഷികം കാർഷികേതരം പലിശ വരവ് കാർഷികം കാർഷികേതരം						
കിസാൻ ക്രെഡിറ്റ് കാർഡ് നൽകിയ കാർഡുകൾ നൽകിയ വായ്പ ബാക്കിനിൽപ്പ് കുടിശ്ശിക ആകെ വായ്പയുടെ എത്ര ശതമാനം (%) ഗ്രീൻ കാർഡുകൾ						

സെൽഫ് ഹെൽപ്പ് ഗ്രൂപ്പുകൾ എണ്ണം നൽകിയ വായ്പ ബാക്കിനിൽപ്പ് കുടിശ്ശിക ബാക്കിനിൽപ്പിന്റെ എത്രശതമാനം						
വികാസ് വാഹിനി ക്ലബ്ബുകൾ ജീവനക്കാരുടെ എണ്ണം ശമ്പളം ഭരണസമിതി / അഡ്മിനിസ്ട്രേറ്റർ ആഡിറ്റ്ഏതുവർഷംവരെകഴിഞ്ഞു നഷ്ടം (തുക) ലാഭം (തുക)						
ആർബിട്രേഷൻ കേസ്സുകൾ ബാക്കിനിൽപ്പ്						
എക്സിക്യൂഷൻ കേസ്സുകൾ ബാക്കിനിൽപ്പ്						
സംഘത്തെ സംബന്ധിച്ച് **അസിസ്റ്റന്റ് രജിസ്ട്രാറുടെ /** **ജോയിന്റ് രജിസ്ട്രാറുടെ** **ആഫീസിൽ തീരുമാനമാകാൻ** **ബാക്കി നിൽക്കുന്ന വിഷയങ്ങൾ**						

സെക്രട്ടറി / മാനേജിംഗ് ഡയറക്ടർ

പ്രതിമാസ യോഗം നടന്ന തീയതി **പങ്കെടുത്തവർ** 1. വകുപ്പ് ഉദ്യോഗസ്ഥർ 2. ജില്ലാ ബാങ്ക് 3. നബാർഡ് 4. അസിസ്റ്റന്റ് രജിസ്ട്രാർ/ വാല്യുവേഷൻ ആഫീസർ 5. അസിസ്റ്റന്റ് രജിസ്ട്രാർ ആഡിറ്റ്)			
പങ്കെടുത്തവർ **1.** **2.** **3.**	പേര്	തസ്തിക	കാരണം
ജോയിന്റ് രജിസ്ട്രാറുടെ അഭിപ്രായം			

ജോയിന്റ് രജിസ്ട്രാർ

അനുബന്ധം – 2

ജില്ല :
ആകെ താലൂക്ക് എണ്ണം :

	തൻമാസാരംഭം എണ്ണം		**തൻമാസം എണ്ണം**		**മാസാവസാനം എണ്ണം**	
പ്രാഥമിക വായ്പാ സംഘങ്ങളുടെ എണ്ണം ഫാർമേഴ്സ് ബാങ്കുകൾ കാർഷികഗ്രാമവികസനബാങ്കുകൾ മറ്റു കാർഷിക സംഘങ്ങൾ (വ്യക്തമാക്കുക)						
കാർഷികേതര വായ്പാ സംഘങ്ങൾ **1. ജീവനക്കാരുടെ** സംഘങ്ങൾ **2. ഹൗസിംഗ്** സംഘങ്ങൾ 3. മറ്റ് വായ്പാ സംഘങ്ങൾ ആകെ						
നിക്ഷേപം	**എണ്ണം**	**തുക**	**എണ്ണം**	**തുക**	**എണ്ണം**	**തുക**
പ്രാഥമിക കാർഷിക സംഘങ്ങൾ/ ഫാർമേഴ്സ് ബാങ്കുകൾ സേവിംഗ്സ് ബാങ്ക് ഫിക്സഡ് ഡിപ്പോസിറ്റ് മറ്റു നിക്ഷേപങ്ങൾ						
വായ്പകൾ	**എണ്ണം**	**തുക**	**എണ്ണം**	**തുക**	**എണ്ണം**	**തുക**
നൽകിയ വായ്പകൾ പട്ടിക ജാതി /പട്ടിക വർഗ്ഗം ന്യൂനപക്ഷ സമുദായം വനിതകൾ						
ജില്ലാബാങ്കിൽ നിന്നും വാങ്ങിയ വായ്പ കാർഷികം കാർഷികേതരം						

Etc.

ജോയിന്റ് രജിസ്ട്രാർ

നമ്പർ : സി.ജി. (1) 31903/2005 സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 28–07–2005

സർക്കുലർ നമ്പർ 25/2005

വിഷയം : **പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളിൽ നിന്നും അംഗങ്ങൾക്ക് നൽകുന്ന വിവിധ ഇനം വായ്പകൾക്കും ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും അതേ ആവശ്യത്തിന് പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾക്ക് നൽകുന്ന വായ്പകൾക്കുമുള്ള ഓഹരി അനുപാതം ഏകീകരിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **സഹകരണ സംഘം രജിസ്ട്രാറുടെ 02–04–2002 ലെ 11/2002–ാം നമ്പർ സർക്കുലർ**

പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ, ഫാർമേഴ്സ് സർവ്വീസ് സഹകരണ ബാങ്കുകൾ, ബാങ്കിങ് റഗുലേഷൻ ആക്ടിന്റെ പരിധിയിൽ വരാത്ത കാർഷികേതര വായ്പാ സഹകരണ സംഘങ്ങൾ എന്നിവയിൽ നിന്നും അംഗങ്ങൾക്ക് നൽകാവുന്ന വിവിധ ഇനം വായ്പകളുടെ പരിധിയും ഓഹരി അനുപാതവും പുതുക്കി നിശ്ചയിച്ചുകൊണ്ട് 03–01–2000 ൽ 3/2000 നമ്പർ സർക്കുലർ നിർദ്ദേശം സഹകരണസംഘം രജിസ്ട്രാർ പുറപ്പെടുവിക്കുകയും തുടർന്ന് ടി സർക്കുലർ പ്രകാരം നിശ്ചയിച്ചിട്ടുള്ള ഓഹരി അനുപാതം ജില്ലാ സഹകരണ ബാങ്കിൽ നിന്നും പ്രാഥമിക സംഘങ്ങളെടുക്കുന്ന വായ്പകൾക്കും ബാധകമാക്കിക്കൊണ്ട് സൂചനയിലെ സർക്കുലറിലൂടെ വീണ്ടും നിർദ്ദേശം പുറപ്പെടുവിക്കുകയുണ്ടായി. എന്നാൽ ചില ജില്ലാ സഹകരണ ബാങ്കുകൾ പ്രസ്തുത നിർദ്ദേശം നടപ്പിലാക്കിയിട്ടില്ല എന്ന് ഈ ആഫീസിലെ ശ്രദ്ധയിൽപ്പെട്ട സാഹചര്യത്തിൽ താഴെ പറയും പ്രകാരം നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു.

ഓഹരി അനുപാതം ഏകീകരിച്ചുകൊണ്ട് പുറപ്പെടുവിച്ചിട്ടുള്ള സർക്കുലർ നിർദ്ദേശങ്ങൾ ജില്ലാ സഹകരണ ബാങ്കുകളിൽ നിന്നും വായ്പ എടുക്കുന്ന എല്ലാത്തരം സഹകരണ സംഘങ്ങൾക്കും ബാധകമാണ്. ടി നിർദ്ദേശങ്ങൾ നടപ്പിലാക്കാത്ത ജില്ലാ ബാങ്കുകൾ ആയത് ഉടനടി നടപ്പിലാക്കേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ : ജി (2) 30599/2005 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 03–08–2005

സർക്കുലർ നമ്പർ 28/2005

വിഷയം : **സഹകരണ വകുപ്പ് – വരൾച്ച, വെള്ളപ്പൊക്കം – പ്രാഥമിക കാർഷിക ഗ്രാമവികസന ബാങ്കുകൾ, പ്രാഥമിക സർവ്വീസ് സഹകരണ ബാങ്കുകൾ/ വായ്പാ സംഘങ്ങൾ എന്നിവയിൽ നിന്നും എടുത്തിട്ടുള്ള കാർഷിക വായ്പകൾ – കുടിശ്ശിക ഈടാക്കുന്നതിനുള്ള ജപ്തി നടപടികൾ നിർത്തിവയ്ക്കൽ – നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നത് – സംബന്ധിച്ച്**

സൂചന : **സഹകരണ സംഘം രജിസ്ട്രാറുടെ രജിസ്ട്രാറുടെ 02–08–2005 ലെ 27/2005 –ാം നമ്പർ സർക്കുലർ**

സംസ്ഥാനത്ത് നിലവിലുള്ള രൂക്ഷമായ വരൾച്ചയും വെള്ളപ്പൊക്കവും മൂലം വ്യാപകമായി കൃഷി/വിളനാശം ഉണ്ടായിട്ടുള്ള സാഹചര്യത്തിൽ സഹകരണ സ്ഥാപനങ്ങളിൽ നിന്നും വായ്പ എടുത്തിട്ടുള്ള കർഷകർക്ക് അവരുടെ ഹ്രസ്വകാല കാർഷിക വായ്പകൾ, മദ്ധ്യകാല വായ്പകളാക്കി മാറ്റുന്നതിനും അനുവാദം നൽകിക്കൊണ്ട് സൂചന പ്രകാരം സർക്കുലർ നിർദ്ദേശം പുറപ്പെടുവിച്ചിട്ടുള്ളതിനാൽ സംസ്ഥാനത്തെ സഹകരണ കാർഷിക ഗ്രാമവികസന ബാങ്കുകൾ, പ്രാഥമിക സർവ്വീസ് സഹകരണ ബാങ്കുകൾ/വായ്പാ സംഘങ്ങൾ എന്നിവയുൾപ്പടെയുള്ള എല്ലാ സഹകരണ സ്ഥാപനങ്ങളും കാർഷിക വായ്പാ തുക ഈടാക്കുന്നതിന് സ്വീകരിച്ചിട്ടുള്ള ജപ്തി നടപടികൾ മൂന്നു മാസത്തേക്ക് നിർത്തിവച്ചു കൊണ്ട് ഉത്തരവാകുന്നു. ഈ ഉത്തരവിന് ഈ സർക്കുലർ തീയതി മുതൽ പ്രാബല്യം ഉണ്ടായിരിക്കുന്നതാണ്.

എല്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരും തങ്ങളുടെ നിയന്ത്രണത്തിലുള്ള സഹകരണ സംഘങ്ങൾക്കും ഉദ്യോഗസ്ഥന്മാർക്കും ഈ വിവരം നൽകേണ്ടതും അവർ ഈ ഉത്തരവ് നടപ്പിലാക്കുന്നുണ്ടെന്ന് ഉറപ്പു വരുത്തേണ്ടതുമാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

GOVERNMENT OF KERALA
Abstract

Co-operation - issue of Gold Loan through primary co-operative Agricultural and rural Development Bank - permission granted - Orders Issued

CO- OPERATION (B) DEPARTMENT

G.O. (RT) No. 406/05/Co-op Dated, thiruvananthapuram, 06-07-2005

Read **: Leter No. CLT (2) 45891/2002 dated 11.02.2005 from Registrar of Co-operative Societies, Thiruvananthapuram.**

ORDER

Registrar of Co-operative Societies in his letter read above has proposed to permit Kerala State Co-operative Agricultural and rural Development Bank for implementation of Gold Loan Scheme through primary co-operative Agricultural and Rural Development Banks as per provisions under section 8 (i) of Kerala Co-operative Agricultural and Rural Development Bank Act and clause 40 (cc) of its bye - law.

Government have examined the proposal in detail and are pleased to accord permission to Kerala State Co-operative Agricultural and Rural Development Bank for implementation of Gold loan scheme through affiliated primary Co-Operative Agricultural and Rural Development Banks in the state as per provisions under sec. 8 (i) of Kerala State Co-operative Agricultural and Rural Development Bank Act and clause 40 (cc) of bye-law.

By Order of the Governor
V.K. SANTHAKUMARI
Additional Secretary to Government

10. ALLIED ACTIVITIES

Number	Subject	Page
29/80	Investment of fund by Panchayat in approved Co-operative Banks and Societies	772
14/82	Investments of funds by Panchayats in approved Co-operative Banks and Societies-regarding.	773
25/91	Primary Service Co-operative Banks/Societies-Unauthorised retention of Credit instruments sent for collection-instructions issued-regarding.	774
1/92	Meeting of National Bank's Managing Director with Government of Kerala Officials –Efforts for raising a mix of deposits so as to maintain economic viability by Co-operative Credit Institutions – Instructions issued.	775
4/92	Recurring Deposits accepted by primary Credit Co-operative Institution need for an Unified rate-instructions issued-regarding.	776
1/93	Daily Deposit schemes in Co-operatives-profitability of such schemes-continuance-instructions issued-	777
72/93	Primary Agricultural Credit Societies-Maximum Borrowing Power-enhancement of limit-orders issued.	777
78/93	പ്രാഥമിക സഹകരണ സംഘങ്ങൾ വ്യക്തികളിൽ നിന്നും വായ്പ വാങ്ങുന്നത് വിലക്കിക്കൊണ്ടുള്ള നിർദ്ദേശം.	778
26/97	സഹകരണ വകുപ്പ്–സഹകരണ സ്ഥാപനങ്ങൾ ബാങ്കിംഗ് ഇടപാടുകൾ നടത്തുമ്പോൾ കൃത്യത പാലിക്കണമെന്നതു സംബന്ധിച്ച്.	780
55/98	**സഹകരണ വകുപ്പ്–കളക്ഷൻ ചെക്കുകൾ കൈകാര്യം ചെയ്യുന്നതിൽ വീഴ്ച വരുത്തുന്നത് – സംബന്ധിച്ച്.**	781

നമ്പർ. സി.ബി. 5 /41671/2002 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, 3.3.2003

സർക്കുലർ നമ്പർ 14/2003

വിഷയം : **സഹകരണ സ്ഥാപനങ്ങളിൽ വ്യാജ മെയിൽ ട്രാൻസ്ഫർ/ഡിമാന്റ് ഡ്രാഫ്റ്റ് എന്നിവ ഉപയോഗിച്ചുള്ള പണംതട്ടിപ്പ് തടയുന്നതിനുള്ള നിർദ്ദേശങ്ങൾ സംബന്ധിച്ച്**

സൂചന : കോഴിക്കോട് ജില്ലാ സഹകരണ ബാങ്കിന്റെ 18.11.02 ലെ കത്ത്

കോഴിക്കോട് ജില്ലാ സഹകരണ ബാങ്കിന്റെ അഴിയൂർ ശാഖയിൽ നിന്നും നൽകിയെന്ന വ്യാജേന ഡിമാന്റ് ഡ്രാഫ്റ്റ് കൃത്യമമായി സൃഷ്ടിച്ച് കാനറാ ബാങ്കിന്റെ ചെമ്മാട് ശാഖ മുഖേന മലപ്പുറം ജില്ലാ സഹകരണ ബാങ്കിന്റെ ചെമ്മാട് ശാഖ യിൽ നിന്നും പണം തട്ടിപ്പ് നടത്തുന്നതിന് ശ്രമിച്ചതായി സൂചനപ്രകാരം അറിയിച്ചിരിക്കുന്നു. ഡി.ഡി.യിലെ കോഡ്നമ്പറിൽ വ്യത്യാ സം കണ്ടപ്പോഴാണ് കൃത്രിമ ഡി.ഡി.യാണെന്ന് മനസിലാക്കാൻ സാധിച്ചത്. വളരെ ഗൂഢമായും ആസൂത്രിതമായും വ്യാജരേഖകൾ ചമച്ച് സഹകരണ സ്ഥാപനങ്ങളിൽ നിന്നും പണം തട്ടിപ്പ് നടത്തുന്ന ഒരു സംഘം ഇതിനു പിന്നിൽ പ്രവർത്തിക്കുന്നതായി സംശയിക്കേണ്ടിയിരിക്കുന്നു. ഇപ്രകാരമുള്ള

ദുഷിച്ച പ്രവണതകൾ സഹകരണ ബാങ്കിംഗ് പ്രസ്താനത്തിന്റെ നിലനിൽപ്പിനും വളർച്ചയ്ക്കും സൽപേരിനും കളങ്കം വരുത്തുന്നതിനാൽ വ്യാജരേഖകൾ ചമച്ചുള്ള പണാപഹരണത്തിനെതിരെ അതീവ ജാഗ്രതയും ശ്രദ്ധയും പുലർത്തേണ്ടതും, ഉചിതമായ നടപടികൾ കൈക്കൊള്ളേണ്ടതുമാണ്.. ആയതിനാൽ താഴെ പറയുന്ന നിർദേശങ്ങൾ സംഘങ്ങൾ കർശനമായി പാലിക്കേണ്ടതാണ്

1. ഡിമാന്റ് ഡ്രാഫ്റ്റുകൾ നൽകുമ്പോൾ മാസ്ക് മാനുവലിൽ നിഷ്കർഷിച്ച എല്ലാ സുരക്ഷിതത്വങ്ങളും കർശനമായി പാലിക്കേണ്ടതാണ്.

2. ഡ്രാഫ്റ്റുകൾ/മെയിൽ ട്രാൻസ്ഫറുകൾ എന്നിവ മുഖേനയുള്ള പണമിടപാടുകളിൽ അതീവ ജാഗ്രത പുലർത്തേണ്ടതാണ്.

3. വലിയ തുകകൾക്കുള്ളതോ സംശയം തോന്നുന്നതോ ആയ ഡ്രാഫ്റ്റുകൾ/മെയിൽ ട്രാൻസ്ഫറുകൾ എന്നിവയിൽ പണമിടപാടുകൾ നടത്തുന്നതിനുമുമ്പായി ബന്ധപ്പെട്ട സ്ഥാപനങ്ങളുമായി ഫോൺ മുഖേന ബന്ധപ്പെട്ട് കൃത്യത ഉറപ്പുവരുത്തേണ്ടതാണ്.

4. ഏതെങ്കിലും തരത്തിലുള്ള തട്ടിപ്പുകളോ പണാപഹരണമോ ശ്രദ്ധയിൽപ്പെട്ടാൽ ബന്ധപ്പെട്ട പോലീസ് അധികൃതരെ അടിയന്തിരമായി വിവരം ധരിപ്പിക്കേണ്ടതും കുറ്റക്കാരെ സംബന്ധിച്ചുള്ള വിവരങ്ങൾ യഥാസമയം നൽകേണ്ടതുമാണ്.

5. എല്ലാ സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരും ഈ സർക്കുലർ നിർദ്ദേശങ്ങൾ സംഘങ്ങളുടെ ശ്രദ്ധയിൽകൊണ്ടു വരേണ്ടതും ആവശ്യമായ മേൽനടപടികൾ യഥാസമയം സ്വീകരിക്കേണ്ടതുമാണ്.

6. ഈ സർക്കുലർ കൈപ്പറ്റിയ വിവരം അറിയിക്കേണ്ടതാണ്.

ജെ. രവീന്ദ്രരാജു

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

No. G(1) 9223/2003 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 4-3-2003

CIRCULAR NO.15/2003

Sub **: Co-operation Department - National savings Collection - Review Meeting of District Collectors - Attendance - Instructions - Issued - regarding**

Ref **: D.O.No.4466/NDS-B1/2002/Fin. dated 20.2.2003 of the Chief Secretary of Kerala**

Hon'ble Chief Secretary vide his letter referred above has informed that the Chief Minister has convened a Special Meeting of District Collectors exclusively to review the small Savings Collection in each district. In the meeting many District Collectors opined that many district officers to whom targets are assigned do not take proper initiative to submit collection reports. As an active deposit mobilization is a must to sustain the financial credibility of the sate, it is requested in the reference cited to give instructions to all concerned officers of the department.

A Government is keenly watching the progress of collection and the all-out participation, of all district officers are required for the success of National Savings Collection process. Therefore all district Joint Registrar of Co-operative Societies (General) are directed to participate with the collection process of National Savings Scheme and also to attend the review meetings periodically convened by the District Collectors. Joint Registrars are also requested to furnish with monthly collection statistics regarding National Savings to this office.

J. Raveerdra Raju
Registrar of Co-operative Societies in Charge

കേരള സർക്കാർ

നമ്പർ : 5830/സി3/02/സഹ — സഹകരണ (സി) വകുപ്പ്,
തിരുവനന്തപുരം, തിയതി 13–09–2002

പ്രിൻസിപ്പൽ സെക്രട്ടറി

സഹകരണ സംഘം രജിസ്ട്രാർ
തിരുവനന്തപുരം

സർ,

വിഷയം : സഹകരണം – പ്രതിമാസ നിക്ഷേപ പദ്ധതി – ഫീസ് ചുമത്തുന്നത് – സംബന്ധിച്ച്

സൂചന : താങ്കളുടെ 15–06–2002, 30–07–2002 തീയതികളിലെ സി.പി.2.8015/2 നമ്പർ കത്തുകൾ

സൂചനയിലേക്ക് ശ്രദ്ധ ക്ഷണിക്കുന്നു. സർവ്വീസ് സഹകരണ ബാങ്കുകളും എംപ്ലോയീസ് സഹകരണ സംഘങ്ങളും നടപ്പിലാക്കി വരുന്ന പ്രതിമാസ നിക്ഷേപ പദ്ധതിയുടെ ആദായത്തിന്റെ 1% വരുന്ന തുക ഫീസായി ഈടാക്കാവുന്നതാണ് എന്ന് അറിയിക്കുന്നു.

താങ്കളുടെ വിശ്വസ്തൻ
ജി. പ്രകാശം
അണ്ടർ സെക്രട്ടറി

പ്രിൻസിപ്പൽ സെക്രട്ടറിക്കു വേണ്ടി

സി.പി. (2) 3015/2002 — സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 05–03–2003

സഹകരണ സംഘം രജിസ്ട്രാർ,
തിരുവനന്തപുരം

എല്ലാ ജോയിന്റ് രജിസ്ട്രാർമാർക്കും (ജനറൽ)

സർ,

വിഷയം : **സഹകരണം – പ്രതിമാസ നിക്ഷേപ പദ്ധതി – ഫീസ് ചുമത്തുന്നത് – സംബന്ധിച്ച്**

സൂചന : **ഈ ആഫീസിലെ 16–10–2002 ലെ സി.പി. (2) 8015/02 നമ്പർ ഇണ്ടാസ്**

സൂചന ഇണ്ടാസിന്റെ തുടർച്ചയായി താഴെ പറയും പ്രകാരം അറിയിക്കുന്നു. സർവ്വീസ് സഹകരണ ബാങ്കുകൾക്കും എംപ്ലോയീസ് സഹകരണ സംഘങ്ങൾക്കും പ്രതിമാസ നിക്ഷേപ പദ്ധതി തുടങ്ങാൻ അനുവാദം നൽകുന്നതിനു മുമ്പ് ടി പദ്ധതി മുഖേന സംഘത്തിന് ലഭിക്കാവുന്ന ലാഭത്തിന്റെ (കമ്മീഷന്റെ) 1% തുക താഴെ പറയുന്ന ശീർഷകത്തിന്റെ ട്രഷറിയിൽ അടയ്ക്കേണ്ടതാണ്.

2425	Co-Operation
800	Other Receipts
93	Other items

വിശ്വസ്തതയോടെ

സഹകരണ സംഘം രജിസ്ട്രാർക്കു വേണ്ടി

നമ്പർ സി.ബി(2) 12545/2003

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 6.11.2003

സർക്കുലർ നമ്പർ 58/2003

വിഷയം : **സ്വർണ്ണപ്പണയ വായ്പാ പദ്ധതി നിലവിലുള്ള സഹകരണ സ്ഥാപനങ്ങൾക്ക് സ്വർണ്ണത്തിന്റെ ഗുണനിലവാരവും, തൂക്കവും കൃത്യമായി അറിയുന്നതിന് കെൽട്രോൺ വികസിപ്പിച്ചെടുത്തിട്ടുള്ള കെൽട്രോൺ റോബോ ഗാർഡിയർ എന്ന ഉപകരണം വാങ്ങുന്നതിന് അനുവാദം നൽകുന്നത് സംബന്ധിച്ച്**

സൂചന : **കെൽട്രോൺ മാനേജിംഗ് ഡയറക്ടറുടെ 5.7.2003ലെ കത്ത്.**

സംസ്ഥാനത്തെ പൊതുമേഖല സ്ഥാപനമായ കെൽട്രോൺ സ്വർണ്ണത്തിന്റെ പരിശുദ്ധിയും തൂക്കവും കൃത്യമായും വളരെ പെട്ടെന്നും അറിയുന്നതിന് കെൽട്രോൺ റോബോ ഗാർഡിയർ എന്ന പേരിൽ ഒരു ഇലക്ട്രോണിക് ഉപകരണം വികസിപ്പിച്ചെടുത്തിട്ടുണ്ട്. ഇന്ത്യാ ഗവൺമെന്റിന്റെ ഇലക്ട്രോണിക് റീജിയണൽ ടെസ്റ്റ് തിരുവനന്തപുരത്തെ റിജിയണൽ റിസർച്ച് ലാബോറട്ടറിയും ഈ ഉപകരണം പരിശോധിച്ച് അംഗീകാരം നൽകിയിട്ടുള്ളതായും സൂചന പ്രകാരം കെൽട്രോൺ അറിയിച്ചിട്ടുണ്ട്.

സ്വർണ്ണപ്പണയ വായ്പാ പദ്ധതി നിലവിലുള്ള സ്ഥാപനങ്ങൾക്ക് പണയമായി ലഭിക്കുന്ന ഏത് ആകൃയിലുള്ള സ്വർണ്ണാഭരണത്തിനും നിശ്ചിത മാനദണ്ഡപ്രകാരമുള്ള പരിശുദ്ധി ഉണ്ടോയെന്ന് അപ്രൈസറുടെ സേവനം കൂടാതെ ഈ ഉപകരണത്തിന്റെ സഹായത്തോടെ വളരെപെട്ടെന്ന് ഉറപ്പ് വരുത്താൻ കഴിയുന്നതാണ്. സ്വർണ്ണപ്പണയ വായ്പാ പദ്ധതി നിലവിലുള്ള സർക്കാർ ഉടമസ്ഥതയിലുള്ള ധനകാര്യ സ്ഥാപനങ്ങളിലും ചുരുക്കം ചില സഹകരണ സ്ഥാപനങ്ങളിലും ഈ ഉപകരണം ഫലപ്രദമായി ഉപയോഗിച്ചു വരുന്നതായി അറിയാൻ കഴിഞ്ഞിട്ടുണ്ട്.

സ്വർണ്ണത്തിന്റെ ഗുണനിലവാരം അറിയുന്നതിനുള്ള ഉപകരണം കമ്പ്യൂട്ടർ, ഇലക്ട്രോണിക് വെയിംഗ് മെഷീൻ ഇവ ഉൾപ്പെടെയുള്ള സംവിധാനത്തിന് ഏകദേശം ഒരു ലക്ഷം രൂപ വിലയാണ് കമ്പനി നിശ്ചയിച്ചിട്ടുള്ളത്. ഇപ്പോൾ കമ്പ്യൂട്ടറും ഇലക്ട്രോണിക് വെയിംഗ് മെഷീനും സ്വന്തമായിട്ടുള്ള സ്ഥാപനങ്ങൾ ഇവ വീണ്ടും വാങ്ങേണ്ടിയില്ലാത്തതിനാൽ വിലയിൽ അതിനനുസരിച്ചിട്ടുള്ള കുറവ് നൽകാമെന്ന്

കെൽട്രോൺ നിശ്ചയിച്ചിട്ടുണ്ട്. ഈ ഉപകരണത്തോടൊപ്പം വാങ്ങുന്ന കമ്പ്യൂട്ടർ മറ്റ് ആവശ്യങ്ങൾക്കും പ്രയോജനപ്പെടുത്താൻ കഴിയുന്നതാണ്.

മേൽ വസ്തുതകൾ പരിഗണിച്ച് സ്വർണ്ണത്തിന്റെ ഗുണ നിലവാരം പരിശോധിക്കുന്നതിന് കെൽട്രോൺ വികസിപ്പിച്ചെടുത്തിട്ടുള്ള കെൽട്രോൺ റോബോ ഗാർഡിയർ എന്ന ഉപകരണം വാങ്ങുന്നതിന് സ്വർണ്ണപ്പണയ വായ്പാ പദ്ധതി നിലവിലുള്ള സംസ്ഥാനത്തെ സഹകരണ സ്ഥാപനങ്ങൾക്ക് ഇതിനാൽ അനുവാദം നൽകുന്നു.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ. സി.പി. (2) 14284.2003 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 27–12–2003

സഹകരണ സംഘം രജിസ്ട്രാർ
തിരുവനന്തപുരം

1. എല്ലാ ജോയിന്റ് രജിസ്ട്രാർമാർക്കും (ജനറൽ)/ (ആഡിറ്റ്)
2. കൺകറന്റ് ആഡിറ്റർമാർ (ജില്ലാ സഹകരണ ബാങ്ക്)

സർ,

വിഷയം : സ്വർണ്ണപണയ വായ്പകളിൻമേൽ സ്വർണ്ണപണ്ടം ലേലം ചെയ്യുമ്പോൾ സെയിൽസ് ടാക്സ് നൽകുന്നത് സംബന്ധിച്ച്

സൂചന : സർക്കാരിന്റെ 27–10–2003 ലെ 678/സി. 1/03/സഹ നമ്പർ കത്ത്

സഹകരണസ്ഥാപനങ്ങൾ സ്വർണ്ണപണയ വായ്പകളിൻമേൽ ഈടായി സ്വീകരിക്കുന്ന സ്വർണ്ണ പണ്ടങ്ങൾ ലേലം ചെയ്യുമ്പോഴും വിൽപ്പന തികുതി ഈടാക്കേണ്ടതുണ്ടോ എന്നത് സംബന്ധിച്ച് നികുതി വകുപ്പുമായി കൂടിയാലോചിച്ചപ്പോൾ സ്വർണ്ണാഭരണങ്ങൾ ലേലം ചെയ്യുമ്പോഴും വിൽപ്പനനികുതി ചുമത്തേണ്ടതാണെന്നും ഇക്കാര്യത്തിൽ ഹൈക്കോടതി 1169/00, 1902/00, 38941/01 എന്നീ കേസുകളുടെ വിധിയിൽ പരാമർശം നടത്തിയിട്ടുണ്ടെന്നും അറിയിച്ചിരിക്കുന്നു എന്നും ആകയാൽ സ്വർണ്ണപണ്ടങ്ങൾ ലേലം ചെയ്യുമ്പോൾ സെയിൽസ് ടാക്സ് ഈടാക്കുന്നുണ്ടോ എന്ന് ഉറപ്പ് വരുത്തണമെന്നും സൂചന പ്രകാരം സർക്കാർ അറിയിച്ചിരിക്കുന്നു.

മേൽ നിർദ്ദേശം ബന്ധപ്പെട്ട എല്ലാ സഹകരണ സ്ഥാപനങ്ങളുടെയും ശ്രദ്ധയിൽ കൊണ്ടു വരേണ്ടതും ആയത് പാലിക്കുന്നുണ്ടോ എന്ന് ഉറപ്പ് വരുത്തേണ്ടതുമാണ്.

താങ്കളുടെ വിശ്വസ്തൻ
സഹകരണസംഘം രജിസ്ട്രാർക്കു വേണ്ടി

നമ്പർ : സി. ജി. (1) 24788/03 സഹകരണസംഘം രജിസ്ട്രാറാഫീസ്,
തിരുവനന്തപുരം, തീയതി 31–01–2005

സർക്കുലർ നമ്പർ 3/2005

വിഷയം : **പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങളും – സർവ്വീസ് സഹകരണ ബാങ്കുകളും ലീഡ് ബാങ്കുകൾക്ക് വിവരങ്ങൾ കൃത്യമായി അയച്ചു കൊടുക്കണമെന്നുള്ള നിർദ്ദേശം**

സൂചന : **സഹകരണ സംഘം രജിസ്ട്രാറുടെ 16-09-1996 ലെ 21/96-ാം നമ്പർ സർക്കുലർ**

ബാങ്കിങ് മേഖലയിലെ ജില്ലാതലത്തിലും സംസ്ഥാനതലത്തിലുമുള്ള പ്രവർത്തനങ്ങൾ ആസൂത്രണം ചെയ്ത് നടപ്പിൽ വരുത്തുന്നതിനായി. ലീഡ് ബാങ്ക് നിർദ്ദേശിച്ചിട്ടുള്ള എൽ.ബി.ആർ. 1, 2, 3 നമ്പർ ഫാറങ്ങൾ പ്രകാരമുള്ള വിവരങ്ങൾ അത്യന്താപേക്ഷിതവും സമയബന്ധിതവുമായി ലീഡ് ബാങ്കുകൾക്ക് ലഭിക്കേണ്ടതുണ്ട്. പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളുടെ/സർവ്വീസ് സഹകരണ ബാങ്കുകളുടെ വിവരങ്ങൾ കൃത്യമായി അയച്ചുകൊടുത്താൽ മാത്രമേ ജില്ലാ തലത്തിലും സംസ്ഥാന തലത്തിലും അവലോകനം നടത്തുന്നതിനും ഈ മേഖലയിലെ സഹകരണ സ്ഥാപനങ്ങലുടെ പങ്കാളിത്തം വ്യക്തമാക്കുന്നതിനും കഴിയുകയുള്ളൂ. വളരെയേറെ പ്രാധാന്യമുള്ള ഈ വിഷയത്തിന് സഹകരണ സംഘങ്ങൾ വേണ്ടത്ര പ്രാധാന്യം കൽപ്പിക്കുന്നില്ല എന്നതും, സ്ഥാപനങ്ങളുടെ ഭാഗത്തുനിന്നുമുള്ള വൈമുഖ്യവും കണക്കിലെടുത്താണ് സൂചന പ്രകാരമുള്ള സർക്കുലർ നിർദ്ദേശം പുറപ്പെടുവിച്ചിട്ടുള്ളത്. പ്രതിനിധികൾ ബ്ലോക്ക് ലവൽ ബാങ്കേഴ്സ് കമ്മറ്റി മീറ്റിങ്ങിൽ കൃത്യമായി ഹാജരാകാതിരിക്കുക, വിവരങ്ങൾ നൽകാതിരിക്കുക/വൈകി നൽകുക, എന്നിവ തുടർന്നു വരുന്നതായും, ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാരെ അറിയിച്ചിട്ടും യാതൊരു നടപടിയും കൈകൊള്ളുകയില്ല എന്നും, ജില്ലാ തല അവലോകനം നടത്തി സംസ്ഥാനതല സമിതിക്ക് റിപ്പോർട്ട് നൽകാൻ കഴിയുന്നില്ല എന്നും ലീഡ് ബാങ്കുകൾ വീണ്ടും ഈ ആഫീസിന്റെ ശ്രദ്ധയിൽപ്പെടുത്തിയിരിക്കുകയാണ്. സംസ്ഥാനത്തെ വികസന പ്രവർത്തനങ്ങളിൽ സഹകരണ മേഖലയുടെ പങ്കാളിത്തം ഇക്കാരണത്താൽ പ്രതിഫലിക്കപ്പെടുന്നില്ല എന്നത് അത്യന്തം ഗുരുതരമായി വീക്ഷിക്കുന്നതോടൊപ്പം, മേലിൽ കർശനമായി പാലിക്കുന്നതിലേക്ക് താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. ബി.എൽ. ബി.സി. മീറ്റിങ്ങുകളിൽ ബന്ധപ്പെട്ടവർ കൃത്യമായി പങ്കെടുക്കേണ്ടതാണ്.
2. ലീഡ് ബാങ്ക് നിശ്ചയിച്ചിട്ടുള്ള എൽ.ബി.ആർ. 1, 2, 3 ഫാറങ്ങളിൽ ഓരോ മാസത്തേയും വിവരങ്ങൾ തയ്യാറാക്കി തൊട്ടടുത്തമാസം 7-ാം തീയതിക്കുള്ളിൽ കിട്ടത്തക്ക വണ്ണം ലീഡ് ബാങ്കിന് നൽകേണ്ടതാണ്. ജില്ലയിലെ ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) ക്ക് ഒരു പകർപ്പ് നൽകേണ്ടുതമാണ്.
3. ജില്ലയിലെ പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങൾ/സർവ്വീസ് സഹകരണ ബാങ്കുകൾ ടി നിർദ്ദേശങ്ങൾ വീഴ്ച കൂടാതെ പാലിക്കുമെന്ന് ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ ഉറപ്പു വരുത്തേണ്ടതും, ടി സർക്കുലർ നിർദ്ദേശം പുറപ്പെടുവിച്ചിട്ടുള്ള സംഘങ്ങളുടെ മാസം തോറുമുള്ള വിവരം സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസിലേക്ക് റിപ്പോർട്ട് ചെയ്യേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻ-ചാർജ്ജ്

11.NON-CREDIT ACTIVITIES

Number	Subject	Page
4/69	Wholesale Co-operative Consumers Stores-Acceptance of tenders for execution of work.	782
12/69	Wholesale Co-operative Stores-Shifting or Closing down of branches-Regarding.	782
23/69	കാലിച്ചാക്കുകൾ വിൽക്കുന്നത് സംബന്ധിച്ച്-സഹകരണ സംഘങ്ങൾ അനുവർത്തിക്കേണ്ട നടപടിക്രമം.	783
24/72	Fixation of Sale price of medicine sold in Medical Sections of Wholesale Co-operative Consumers Stores-Regarding.	784
1/74	Godown by Co-operative Societies-Leasing/renting out to other organisations-Instructions issued.	785
32/74	സർക്കുലർ-ചരക്കുകളും സ്റ്റോക്കുകളും കൈകാര്യം ചെയ്യുന്ന സഹകരണ സംഘങ്ങൾ തീ പിടിത്തത്തിനെതിരായി ഇൻഷർ ചെയ്യുന്നത് സംബന്ധിച്ച്.	785
37/76	School and College Co-operative Societies-Maintenance of Accounts-Giving guidance –Orders-Issued.	786
75/76	ചെറുകിട വ്യവസായ യൂണിറ്റുകൾ ഉത്പാദിപ്പിക്കുന്ന ഉത്പന്നങ്ങളുടെ വിപണനം മൊത്ത വ്യാപാര ഉപഭോക്തൃ സഹകരണ സംഘങ്ങൾ മുഖാന്തിരം നടത്തുന്നതിനെ സംബന്ധിച്ചുള്ള നിർദ്ദേശങ്ങൾ-	787
48/77	Civil Supplies-A.R.Ds. and A.W.Ds.run by Co-operative Societies-Actions against the licensees-Instructions issued.	788
27/83	Procurement and marketing of Rubber and Rubber Products-Private parties to be completely eliminated-Instructions issued.	789
41/84	Wholesale Stores-Accumulation of dead stock due to wrong purchase policies-Preventive measures-Fixing of responsibility on purchasing officers-Instructions issued.	790
3/86	തൊണ്ടു വിൽപന -കയർ സംഘങ്ങൾക്കും കയർ കോർപറേഷനും തൊണ്ടു വിൽക്കുന്നതു സംബന്ധിച്ച്.	791
20/86	കാർഷിക സഹകരണ സംഘങ്ങൾ - നെൽവിത്ത് സംഭരണവും വിതരണവും സംബന്ധിച്ച നിർദ്ദേശങ്ങൾ	793
3/87	ഉപഭോക്തൃ സഹകരണ സംഘങ്ങൾ - സ്വയം സേവന വിഭാഗങ്ങൾ (സെൽഫ് സർവീസ് സിസ്റ്റം) രൂപീകരിക്കുന്നത് സംബന്ധിച്ച്	794
7/87	മാനേജ്മെന്റ് അക്കൗണ്ടിംഗ് സിസ്റ്റം	796
35/87	Fertilizer distribution through Co-operatives-Package of practices to be followed.	799
38/94	സ്ക്കൂൾ/കോളേജ് സഹകരണ സംഘങ്ങളുടെ പ്രവർത്തനം കൂടുതൽ മെച്ചപ്പെടുത്തുന്നത് സംബന്ധിച്ച്.	801
33/98	Rubber processing Companies of Rubber Board and Rubber producers societies-permission to Rubber Marketing the processing Co-op: Societies to take shares-instructions issued.	803
45/2000	Protection of Consumers from illegal and unethical trade practice followed by traders/shop keepers in the country-circular instructions-regarding.	804

നമ്പർ.സി.എസ്.(1) 40277/2000 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 4.11.2000

സർക്കുലർ നമ്പർ 52/2000

വിഷയം : **കേരള സംസ്ഥാന പട്ടികജാതി / പട്ടികവർഗ്ഗ വികസന സഹകരണ ഫെഡറേഷന്റെ ആയുർധാര ആയുർവേദ ഔഷധങ്ങളുടെ വിപണനം സംബന്ധിച്ച്**

സൂചന : **1. എസ്.സി./എസ്.ടി.ഫെഡ് ഭരണസമിതിയുടെ 20.11.2000 ലെ തീരുമാനം.**

2. എസ്.സി./എസ്.ടി. ഫെഡ് എം.ഡി.യുടെ 18.11.2000ലെ കത്ത്.

സംസ്ഥാനത്തെ പട്ടികജാതി / പട്ടികവർഗ്ഗ വിഭാഗങ്ങളുടെ ഉന്നമനം ലക്ഷ്യമാക്കി സഹകരണ മേഖലയിൽ പട്ടികജാതി / പട്ടികവർഗ്ഗ സഹകരണസംഘങ്ങളുടെ ഒരു അപ്പക്സ് ഫെഡറേഷൻ, കേരള സംസ്ഥാന പട്ടികജാതി പട്ടികവർഗ്ഗ സഹകരണ ഫെഡറേഷൻ ക്ലിപ്തം എന്ന പേരിൽ 1981 മുതൽ സംസ്ഥാനത്തു പ്രവർത്തിച്ചു വരുന്നുണ്ട്. സംസ്ഥാനത്തെ 81 ഫോറസ്റ്റ് റെയ്ഞ്ചുകളിലെ ചെറുകിട വനവിഭവ ശേഖരണം സംസ്ഥാന സർക്കാരിന്റെ അനുവാദത്തോടെ ഫെഡറേഷനിൽ അഫിലിയേറ്റു ചെയ്തിട്ടുള്ള 33 പ്രാഥമിക പട്ടികവർഗ്ഗ സഹകരണസംഘങ്ങൾ വഴിയാണ് നടത്തി വരുന്നത്. അവർ ശേഖരിച്ചുവരുന്ന ചെറുകിട വനവിഭാഗങ്ങളിൽ ഔഷധ മൂല്യമുള്ള വനവിഭവങ്ങൾ കൊണ്ട് എൻ.സി.ഡി.സി.യുടെ സാമ്പത്തികസഹായത്തോടെ ഔഷധ നിർമ്മാണത്തിനായി ആയുർധാര എന്ന ഒരു ആയുർവേദ ഔഷധ നിർമ്മാണ യൂണിറ്റിന് ഫെഡറേഷൻ രൂപം നൽകി പ്രവർത്തനം ആരംഭിച്ചിട്ടുണ്ട്. അപ്രകാരം ആയുർധാരയിൽ നിന്നും വിവിധയിനം ആയുർവേദ മരുന്നുകൾ തയ്യാറാക്കി വിപണിയിൽ ഇറക്കിയിട്ടുണ്ട്.

ഫെഡറേഷന്റെ ഈ ഉൽപ്പന്നങ്ങൾക്ക് സഹകരണ സംഘങ്ങൾ വഴി വിപണി ലഭ്യമാക്കുന്നതിനായി ഫെഡറേഷൻ മാനേജിംഗ് ഡയറക്ടർ അപേക്ഷ സമർപ്പിച്ചിട്ടുണ്ട്. ഫെഡറേഷന്റെ ആയുർധാര ഉൽപ്പന്നങ്ങൾ ഗുണമേന്മയിൽ കൂടി ജി.എം.പി. വ്യവസ്ഥകൾക്ക് അനുസൃതമായിട്ടാണ് നിർമ്മിച്ചു വരുന്നതെന്ന് ഫെഡറേഷൻ അറിയിച്ചിട്ടുണ്ട്. ഔഷധങ്ങൾ ആവശ്യമുളള സ്ഥാപനങ്ങൾക്ക് ഔഷധങ്ങളും / ഉൽപ്പന്നങ്ങളും യഥാസമയം എത്തിച്ചു കൊടുക്കാനുളള സംവിധാനമുണ്ടെന്നും ഫെഡറേഷൻ മാനേജിംഗ് ഡയറക്ടർ അറിയിച്ചിട്ടുണ്ട്.

മേൽ സാഹചര്യത്തിൽ കേരള സംസ്ഥാന പട്ടികജാതി / പട്ടികവർഗ്ഗ വികസന ഫെഡറേഷന്റെ ആയുർധാര ആയുർവേദ ഔഷധങ്ങളും/ഉൽപന്നങ്ങളും കൺസ്യൂമർ ഫെഡറേഷന്റെ വിൽപന ശാലകൾ, ഡിപ്പാർട്ടുമെന്റ് സ്റ്റോക്കുകൾ, നീതി സ്റ്റോറുകൾ / നീതി മെഡിക്കൽ സ്റ്റോറുകൾ എന്നിവയിലൂടെ വിൽപന നടത്തുന്നതിന് ആവശ്യമായ നടപടികൾ കേരളാ സ്റ്റേറ്റ് കോ. ഓപ്പറേറ്റീവ് കൺസ്യൂമേഴ്സ് ഫെഡറേഷൻ സ്വീകരിക്കേണ്ടതാണ്. ആയുർധാര ആയുർവേദ ഉൽപ്പന്നങ്ങളുടെ വിൽപന സംബന്ധിച്ച കാര്യം കേരള സംസ്ഥാന പട്ടികജാതി പട്ടികവർഗ്ഗ വികസന സഹകരണ ഫെഡറേഷനും കേരള സംസ്ഥാന സഹകരണ കൺസ്യൂമർ ഫെഡറേഷനും വ്യക്തമായ തീരുമാനത്തിന്റെ അടിസ്ഥാനത്തിൽ നടപടി ക്രമങ്ങൾ പൂർത്തിയാക്കിയ ശേഷം സ്വീകരിക്കേണ്ടതാണ്.

ധരംവീർ
സഹകരണസംഘം രജിസ്ട്രാർ

നമ്പർ സി.എസ് 3 /551/2001 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 6-2-2001

സർക്കുലർ നമ്പർ 9/2001

വിഷയം : **സഹകരണം നീതി സ്റ്റോറുകളുടെ നഷ്ടം ഒഴിവാക്കുന്നതിനും പ്രവർത്തനം ലാഭകരമാക്കുന്നതിനുമുള്ള നടപടികൾ സ്വീകരിക്കുന്നത് സംബന്ധിച്ച്.**

സൂചന : **22–1–02ലെ ബഹുമാനപ്പെട്ട വിദ്യുച്ഛക്തി/സഹകരണമന്ത്രിയുടെ ചേംബറിൽ നടന്ന സമ്മേളന തീരുമാനം.**

സംസ്ഥാനത്ത് പ്രവർത്തിച്ചു വരുന്ന നീതിസ്റ്റോറുകളിൽ നല്ലൊരു വിഭാഗം നഷ്ടത്തിലാണ് എന്ന് നീതിസ്റ്റോറിന്റെ സംസ്ഥാന തല കമ്മറ്റി വിലയിരുത്തി. അതായത് അനുവദിച്ച 1067 സ്റ്റോറുകളിൽ 855 മാത്രമെ പ്രവർത്തിക്കുന്നുള്ളു എന്നും അതിൽ 212 എണ്ണം നഷ്ടത്തിലാണെന്നും സംസ്ഥാനതല കമ്മറ്റി യോഗം കണ്ടെത്തി. ഇത് സംഘംങ്ങളുടെ പ്രവർത്തന ശേഷിയെ പ്രതികൂലമായി ബാധിക്കുമെന്നതിനാൽ നഷ്ടത്തിൽ പ്രവർത്തിക്കുന്ന നീതിസ്റ്റോറുകളെ കൂടി നഷ്ടം നികത്തി, ലാഭത്തിൽ പ്രവർത്തിക്കേണ്ടത് ആവശ്യമെന്ന് കാണുന്നു. 22-1-2001ൽ ബഹുമാനപ്പെട്ട സഹകരണ വകുപ്പ് മന്ത്രിയുടെ ചേംബറിൽ വച്ച് നടത്തുന്ന നീതിസ്റ്റോറുകളുടെ നടത്തിപ്പിനെക്കുറിച്ച് യോഗത്തിൽ ഇക്കാര്യം ചർച്ച ചെയ്യുകയുണ്ടായി ആയതിന്റെ അടിസ്ഥാനത്തിൽ താഴെ പറയുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

നീതി സ്റ്റോറുകൾ/മെഡിക്കൽ സ്റ്റോറുകൾ നടത്ത പ്രാഥമിക സംഘങ്ങളുടെ യോഗം എല്ലാ താലൂക്കിലും മാസം തോറും അസിസ്റ്റൻറ് രജിസ്ട്രാർ (ജനറൽ) വിളിച്ചു കൂട്ടേണ്ടതും, പ്രത്യേകിച്ച് നഷ്ടത്തിൽ പ്രവർത്തിക്കുന്ന നീതി സ്റ്റോറുകളുടെയും മെഡിക്കൽ സ്റ്റോറുകളുടെയും പരാജയകാരണങ്ങൾ കണ്ടെത്തി ലാഭത്തിൽ പ്രവർത്തിക്കുന്ന നീതി സ്റ്റോറുകളുമായി താരതമ്യപഠനം നടത്തി ലാഭകരമാകുന്നതിനുള്ള അടിയന്തിര നടപടികൾ സ്വീകരിക്കേണ്ടതാണ്. ഇപ്രകാരം വിളിച്ചു കൂട്ടുന്ന യോഗത്തിൽ സംഘത്തിന്റെ ചുമതലയുള്ള യൂണിറ്റ് ഇൻസ്പെക്ടറുടെ സാന്നിദ്ധ്യം ഉറപ്പാക്കേണ്ടതാണ്. ഇപ്രകാരം താലൂക്ക് തലത്തിൽ നടത്തുന്ന യോഗതീരുമാനങ്ങൾ ജില്ലാ ജോയിൻറ് രജിസ്ട്രാർമാർ അവലോകനം നടത്തി രജിസ്ട്രാർക്ക് സമർപ്പിക്കേണ്ടതാണ്. എല്ലാ ജോയിൻറ് രജിസ്ട്രാർ (ജനറൽ മാരും പ്രസ്തുത ആദ്യ റിപ്പോർട്ട് ഈ മാസം 28-2-2001ന് മുൻപ് ഈ ആഫീസിലേക്ക് അയച്ചുതരേണ്ടതാണ്) കൂടാതെ നഷ്ടത്തിൽ പ്രവർത്തിക്കുന്ന നീതി സ്റ്റോർ/ നീതി മെഡിക്കൽ സ്റ്റോർ എന്നിവ ഓരോ മാസാവസാന പുരോഗതി അടുത്ത മാസം മുതൽ 10ന് മുൻപ് രജിസ്ട്രാറെ രേഖാമൂലം അറിയിക്കേണ്ടതാണ്. ഗവൺമെൻറിൽ നിന്നും ധനസഹായം ലഭിച്ച ശേഷം പ്രവർത്തിക്കാത്ത നീതി സ്റേറാറുകൾ പ്രവർത്തിക്കാനുള്ള നടപടി ഉടനെ എടുക്കേണ്ടതാണ്.

കൂടാതെ സംഘങ്ങൾ നീതിസ്റ്റോറിന്റേയും, നീതിമെഡിക്കൽ സ്റ്റോറിന്റെയും ഇൻഡൻറുകൾ കൺസ്യൂമർ ഫെഡറേഷൻ നൽകുമ്പോൾ ആവശ്യത്തിനുള്ള മരുന്നുകൾ വേഗത്തിൽ വിറഴിക്കാൻ കഴിയുന്നത്, സ്റ്റോക്ക് ഇരിപ്പ് എന്നിവ പ്രത്യേകം നോക്കിയതാണോ ഇൻഡൻറ് നൽകുന്നതെന്ന് സംഘത്തിലെ കമ്മറ്റിയോ/സെക്രട്ടറിയോ പ്രത്യേകം

ശ്രദ്ധിക്കേണ്ടതാണ്. നീതിസ്റ്റോറിന്റെറ നഷ്ടം സ്റ്റോക്ക് കുറവ് പോലുള്ള അപാകതകൾ, ബന്ധപ്പെട്ട ഇൻസ്പെക്ടർമാരും സംഘം കമ്മറിയും കാലാകാലങ്ങളിൽ പരിശോധിക്കുകയും കൂടാതെ വീഴ്ചകളിന്മേൽ കൃത്യമായ ഉത്തരവാദിത്വം ചുമത്തി സംഘത്തിനുണ്ടായ നഷ്ടം ഉത്തരവാദികളിൽ നിന്നും കാലാകാലങ്ങളിൽ ഈടാക്കുന്നുണ്ടോ എന്ന് അസിസ്റ്റൻറ് രജിസ്ട്രാർ (ജനറൽ) പരിശോധിക്കേണ്ടതും ജനറൽ ജോയിൻറ് രജിസ്ട്രാറെ അറിയിക്കേണ്ടതാണ്. ഇതിന് വീഴ്ച വരുത്തുന്ന ഉദ്യോഗസ്ഥന്മാരുടെ പേരിൽ ജോയിൻറ് രജിസ്ട്രാർ (ജനറൽ) കർശന നടപടി എടുക്കേണ്ടതാണ്.

കൂടാതെ ചില സംഘങ്ങൾ ശരിയായ രീതിയിൽ ഇൻഡൻറ് നൽകാതെ പുറത്തുന്നിന്നും മരുന്നും, നീതിസ്റ്റോർ സാധനങ്ങളും വാങ്ങുന്നതായി കമ്മറിയുടെ ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. ഇൻഡൻറ് കൃത്യമായും നൽകി ഫെഡറേഷനിൽ നിന്നും നിശ്ചിത സമയത്തിനകം ലഭിക്കുന്നില്ലെങ്കിൽ സംഘം അസിസ്റ്റൻറ് രജിസ്ട്രാർ (ജനറൽ) ജോയിൻറ് രജിസ്ട്രാർ (ജനറൽ) അറിയിക്കേണ്ടും അവർ ഫെഡറേഷന്റെറ മാനേജിംഗ് ഡയറക്ടറെയോ/ ബിസിനസ്സ് മാനേജരെയോ ഉടൻ അറിയിച്ച് പരിഹാരം നേടേണ്ടതുമാണ്. സംഘങ്ങൾ ഗവൺമെൻറിൽ നിന്നും ധനസഹായം ലഭിച്ച ശേഷം പുറത്തു നിന്നും സാധനങ്ങൾ വാങ്ങി നീതിസ്റ്റോറിന്റെറ ലക്ഷ്യങ്ങൾക്ക് വിരുദ്ധമായി പ്രവർത്തിക്കുന്നതായി കാണുന്നു. നീതിസ്റ്റോറുകൾ പുറത്തു നിന്നും സാധനങ്ങൾ വാങ്ങുന്നതിനും കർശനമായി തടയേണ്ടതാണ്.

കൂടാതെ സംഘം സാധനങ്ങൾ വാങ്ങുമ്പോൾ ഫെഡറേഷന് നൽകുവാനുള്ള തുക, കാലതാമസം വരുത്താതെ നൽകുന്നുണ്ടെന്ന് ബന്ധപ്പെട്ട അസിസ്റ്റൻറ് രജിസ്ട്രാർ/ജോയിൻറ് രജിസ്ട്രാർ (ജനറൽ) ഉറപ്പ് വരുത്തേണ്ടതാണ്. ഇതിന്റെറ അടിസ്ഥാനത്തിൽ എല്ലാ ജോയിൻറ് രജിസ്ട്രാർ (ജനറൽ) നീതി സ്റേറാർ/ മെഡിക്കൽ സ്റേറാർ നടത്തുന്ന സംഘങ്ങളുടെ ഓരോ പ്രതിനിധികളെയും ജില്ലാ തല കമ്മറിയുടെ അംഗങ്ങൾ ഉൾപ്പെടെ ഒരു അടിയന്തിര യോഗം വിളിച്ചു കൂട്ടി നടപടി വിലയിരുത്തേണ്ടതാണ്. കൂടാതെ താലൂക്ക് തലത്തിലും ജില്ലാതലത്തിലും ഉള്ള യോഗത്തിൽ ഫെഡറേഷന്റെറ പ്രതിനിധി കൂടി നിശ്ചയമായും പങ്കെടുക്കേണ്ടതാണ്. പ്രസ്തുത യോഗത്തിൽ പങ്കെടുക്കുന്നതായി വിവരം രജിസ്ട്രാറെയും ഫെഡറേഷനെയും വിവരം 5 ദിവസം മുൻകൂട്ടി കത്ത് പ്രകാരവും ഫോൺ മുഖാന്തിരവും അറിയിക്കേണ്ടതാണ്.എല്ലാ ജോയിൻറ് രജിസ്ട്രാർമാരും നീതി സ്റേറാർ/മെഡിക്കൽ സംഘങ്ങളും ആദ്യയോഗം, നഷ്ടം വിലയിരുത്തലും ഈ മാസം തന്നെ നടത്തേണ്ടതാണ്. ഈ സർക്കുലർ കൈപ്പറ്റിയ വിവരം എല്ലാ ജോയിൻറ് രജിസ്ട്രാർ (ജനർ) ലും സർക്കുലർ കൈപ്പറ്റി 2 ദിവസത്തിനകം അറിയിക്കേണ്ടതും സർക്കുലർ നിർദ്ദേശം കർശനമായി പാലിക്കുന്നു എന്ന് ഉറപ്പ് വരുത്തേണ്ടതുമാണ്.

സഹകരണസംഘം രജിസ്ട്രാർ

നമ്പർ സി.എസ്. (3) 35140/2002

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 15.11.2002

സർക്കുലർ നമ്പർ 39/2002

വിഷയം : **നീതി സ്റ്റോർ നടത്തുന്ന സഹകരണ സ്ഥാപനങ്ങളിൽ നിന്നും പ്രോവിഷൻ എൽ.പി.ജി. ഗ്യാസ് എന്നിവയുടെ വില ലഭിക്കാത്തതു സംബന്ധിച്ച്**

സൂചന : **10.10.2002 ന് കോട്ടയം ജില്ല പഞ്ചായത്ത് പ്രസിഡന്റിന്റെ ചേംബറിൽ നടന്ന സമ്മേളന തീരുമാനം**

കോട്ടയം ജില്ലാ പഞ്ചായത്ത് ചേംബറിൽ വച്ചു 10.10.2002 നു നടന്ന് മീറ്റിംഗിൽ കോട്ടയം ജില്ലയിലെ പല സഹകരണസംഘങ്ങളും നീതിസ്റ്റോറിലേയ്ക്ക് സാധനങ്ങൾ വാങ്ങിയതിന്റെ വില നൽകുന്നതിൽ ഭീമമായ തുക കുടിശ്ശിക വരുത്തിയിട്ടുണ്ടെന്നും നീതി സ്റ്റോർ നടത്തുന്ന പല സംഘങ്ങളും സാധനങ്ങൾ കൺസ്യൂമർഫെഡിൽ നിന്നും വാങ്ങുന്നില്ല എന്ന് അറിയിച്ചതിന്റേയും വെളിച്ചത്തിൽ ചുവടെ പറയുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. നീതിസ്റ്റോറിലേയ്ക്ക് കൺസ്യൂമർഫെഡിൽ നിന്നും സഹകരണ സംഘങ്ങൾ പരമാവധി സാധനങ്ങൾ എടുക്കണം.

2. സാധനങ്ങൾ വാങ്ങി മൂന്നു ദിവസത്തിനകം ചെക്ക് ടി സഹകരണസംഘങ്ങൾ ഫെഡറേഷന് നൽകണം.

3. ഇപ്പോൾ കുടിശ്ശികയായ തുക സഹകരണസംഘങ്ങളിൽ നിന്നും ഈടാക്കുന്നതിന് ജില്ലാ തല ജനറൽ വിഭാഗം സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർ നടപടി സ്വീകരിക്കണം.

4. സഹകരണസംഘങ്ങൾ നീതിസ്റ്റോറിലേയ്ക്ക് ഫെഡറേഷനിൽ നിന്നും അല്ലാതെ പുറമെ നിന്നും സാധനങ്ങൾ വാങ്ങാൻ പാടില്ല.

5. നീതിസ്റ്റോറിന്റെ സ്റ്റോക്ക് പരിശോധന നടത്താൻ ജനറൽ വിഭാഗം സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർമാർ നടപടി സ്വീകരിക്കേണ്ടതാണ്.

ഈ നിർദേശങ്ങൾ ജനറൽ വിഭാഗം സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർമാർ എല്ലാ പ്രാഥമിക ഉപഭോക്തൃ സംഘങ്ങളുടേയും ശ്രദ്ധയിൽകൊണ്ടുവരേണ്ടതും നിർദ്ദേശങ്ങൾ പാലിക്കുന്നുണ്ടെന്ന് ഉറപ്പു വരുത്തുകയും ചെയ്യേണ്ടതാണ്.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ

നമ്പർ എം.പി.(2) 12518/2003

സഹകരണസംഘം രജിസ്ട്രാർ ആഫിസ്,
തിരുവനന്തപുരം, തീയതി 9.4.2003

സർക്കുലർ നമ്പർ 20/2003

വിഷയം : **റബ്കോ നാളികേര സംസ്ക്കരണ പദ്ധതി മറ്റ് സംഘങ്ങളിൽ കൂടി നടപ്പാക്കുന്നത് സംബന്ധിച്ച്**

സൂചന: കേരള സംസ്ഥാന റബ്ബർ സഹകരണസംഘം (റബ്കോ) ക്ലിപ്തം നമ്പർ 4412 ന്റെ 28.2.2003 ലെ അപേക്ഷ

പച്ചതേങ്ങയിൽ നിന്നും നേരിട്ട്, കൊപ്ര ആക്കാതെ തന്നെ, നൂതനമായ സാങ്കേതിക വിദ്യ ഉപയോഗിച്ച് വെളിച്ചണ്ണ ഉണ്ടാക്കുന്ന ഒരു പദ്ധതി തുടങ്ങുന്നതിനു ആസ്ട്രേലിയയിലെ കോക്കനട്ട് പസഫിക്ക് പ്രൈവറ്റ് ലിമിറ്റഡ് എന്ന കമ്പനിയുമായി റബ്കോ കരാറിലേർപ്പെട്ടിരിക്കുകയാണെന്നും ഈ പദ്ധതി സംസ്ഥാനത്തെ തിരഞ്ഞെടുക്കപ്പെടുന്ന 200 പ്രാഥമിക സഹകരണ സംഘങ്ങളിൽ കൂടി നടപ്പാക്കാനാണ് ഉദ്ദേശിക്കുന്നതെന്നും, റബ്കോ അറിയിച്ചിരിക്കുന്നു.

പച്ചത്തേങ്ങയിൽ നിന്നും നേരിട്ട് വെളിച്ചെണ്ണയെടുക്കുന്ന സാങ്കേതിക വിദ്യയെ ഡയറക്ട് മൈക്രോ എക്സ്പെല്ലർ (ഡി.എം.ഇ.) സാങ്കേതിക വിദ്യ എന്നാണ് അറിയപ്പെടുന്നത്. ഈ സാങ്കേതിക വിദ്യയനുസരിച്ച് തേങ്ങ ഉടച്ചുകഴിഞ്ഞ് ഒന്നര മണിക്കൂറിനകം തന്നെ വെളിച്ചെണ്ണയെടുക്കുവാൻ സാധിക്കും. പരമ്പരാഗതമായ ഇന്നത്തെ രിതിയിൽ നിന്നും തികച്ചും വ്യത്യസ്ഥമായ രീതിയാണിത്.

ഓരോ സംഘത്തിനും യൂണിറ്റ് തുടങ്ങുന്നതിന് 15 സെന്റ് സ്ഥലം ആവശ്യമാണ്. 2000 ചതുരശ്ര അടി വിസ്തീർണ്ണമുള്ള കെട്ടിടമാണ് ആവശ്യമുള്ളത്. യൂണിറ്റ് തുടങ്ങുന്നതിനാവശ്യമായ കെട്ടിടം, യന്ത്രസാമഗ്രികൾ, പ്രവർത്തന മൂലധനം തുടങ്ങിയവയ്ക്കായി 18.72 ലക്ഷം രൂപ ചെലവ് വരും. മുതൽ മുടക്ക് സംബന്ധിച്ച് വിശദവിവരം ചുവടെ കൊടുക്കുന്നു.

1. സ്ഥലം 15 സെന്റ്	2.00 ലക്ഷം രൂപ
2. കെട്ടിടം	4.00 ലക്ഷം രൂപ
3. യന്ത്രാസാമഗ്രികൾ	11.00 ലക്ഷം രൂപ
4. വൈദ്യുതീകരണം	0.25 ലക്ഷം രൂപ
5. പലവക	0.96 ലക്ഷം രൂപ
6. പ്രവർത്തന മൂല ധനം	0.51 ലക്ഷം രൂപ
	ആകെ 18.72 ലക്ഷം രൂപ

ഇതിൽ 2.5 ലക്ഷം രൂപ കേന്ദ്ര നാളികേര ബോർഡിൽ നിന്നും സബ്സിഡി ലഭിക്കാൻ സാധ്യതയുണ്ടെന്നും, യൂണിറ്റുകൾക്കാവശ്യമായ യന്ത്രസാമഗ്രികൾ മൊത്തമായി വിദേശത്തുനിന്നും ഇറക്കുമതി ചെയ്തും ആഭ്യന്തരമായി സമാഹരിച്ചും ഓരോ സംഘത്തിനും നൽകുന്നതാണെന്നും ഒരു യൂണിറ്റിന് ദിനംപ്രതി 2000 നാളികേരമാണ് ആവശ്യമായി വരുന്നതെന്നും ഉൽപാദിപ്പിക്കുന്ന വെളിച്ചെണ്ണ മുഴുവനും റബ്കോ വാങ്ങി റബ്കോയുടെ മുദ്രണത്തിൽ വിപണനം നടത്തുന്നതും ഇതിന്റെ പൂർണ്ണ ഉത്തരവാദിത്വം റബ്കോയ്ക്ക് മാത്രവുമായിരിക്കും എന്നും അറിയിച്ചിരിക്കുന്നു. ഓരോ സംഘത്തിനും അവരവരുടെ മുടക്കു മുതലിൻമേൽ 12% പലിശയും 15% ലാഭവും (മൊത്തം 27%) ഉറപ്പുവരുത്തിയിരിക്കും. ഈ എ ല്ലാ ചെലവുകളും കഴിച്ച് സംഘത്തിനു ലഭിക്കുന്ന വരുമാനം ആയിരിക്കും. എന്നാൽ യഥാസമയം നിഷ്കർഷിക്കുന്ന രീതിയിൽ ഉൽപാദനക്ഷമത സാധ്യമായാൽ മാത്രമേ മേൽപറഞ്ഞ വരുമാനം സംഘത്തിനു ലഭ്യമാവുകയുള്ളു.

ഓരോ യൂണിറ്റിനും 12 തൊഴിലാളികളെ ആവശ്യമായി വരും. തൊഴിലാളികളെ നിയമാനുസൃത അനുമതിക്കു വിധേയമായി നിയമിക്കുന്നതിനുള്ള പൂർണ്ണമായ ഉത്തരവാദിത്വം അതാതു സംഘത്തിനായിരിക്കും. ഇവരുടെ വേതനം സംഘം തന്നെ നൽകേണ്ടതാണ്. എന്നാൽ ഉൽപാദനചെലവ് ഏകീകരിക്കുന്നത് നിഷ്കർഷിക്കപ്പെടുന്ന ഏകീകൃത വേതനം മാത്രമേ തൊഴിലാളികൾക്ക് നൽകാൻ പാടുള്ളു. സംഘം, യാതൊരു കാരണവശാലും മറ്റു സ്ഥാപനങ്ങൾക്കോ, വ്യക്തികൾക്കോ ടി സാങ്കേതികവിദ്യ കൈമാറാൻ പാടുള്ളതല്ല. സംഘം ഉണ്ടാക്കുന്ന വെളിച്ചെണ്ണയും ഉപോൽപ്പന്നങ്ങളായ ചകിരി, ചിരട്ട, തേങ്ങപിര, തേങ്ങാവെള്ളം എന്നിവയും മറ്റ് പ്രതിഫലം ഒന്നും ഇല്ലാതെ റബ്കോയെ തിരിച്ചേൽപ്പിക്കേണ്ടതാണ്. മേൽപ്പറഞ്ഞ വ്യവസ്ഥകളടങ്ങുന്ന കരാറിൽ ഓരോ സംഘവും ഒപ്പുവയ്ക്കണ്ടതും അപ്രകാരം കരാറിലെ വ്യവസ്ഥകൾ പൂർണ്ണമായും പാലിക്കുന്നുണ്ടെന്ന് ഉറപ്പുവരുത്തേണ്ടതുമാണ്.

ഈ പദ്ധതിയിൽ താൽപര്യമുള്ള പ്രാഥമിക കാർഷിക സഹകരണ സംഘങ്ങൾ പ്രൊപോസലുകൾ ബന്ധപ്പെട്ട ജനറൽ വിഭാഗം സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർമാർക്ക് നൽകേണ്ടതും ജനറൽ സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാർമാർ അർഹതപ്പെട്ട സംഘങ്ങളെ തെരഞ്ഞെടുത്ത് രജിസ്ട്രാറെ അറിയിക്കേണ്ടതുമാണ്. അന്തിമ ലിസ്റ്റ് രജിസ്ട്രാർ പ്രസിദ്ധപ്പെടുത്തുന്നതുമായിരിക്കും.

ജെ. രവീന്ദ്രരാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ എം.പി.(4) 31369/2003

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 21.8.2005

സർക്കുലർ നമ്പർ 46/2003

വിഷയം : **മലബാർ റീജിയണൽ ഹോർട്ടി കൾച്ചറൽ പ്രൊഡ്യൂസേഴ്സ് പ്രേസസ്സിംഗ് ആന്റ് മാർക്കറ്റിംഗ് സഹകരണസംഘം ലി.നം.4436 (ഹോപ്കോ) ഉൽപ്പാദിപ്പിക്കുന്ന ജൈവ ശ്രീ വളങ്ങളുടെ വിൽപ്പന പ്രോത്സാഹിപ്പിക്കുന്നതിന് സഹകരണസംഘങ്ങൾക്ക് നിർദ്ദേശം നൽകുന്നത് സംബന്ധിച്ച്**

സൂചന : **1) സംഘം ഭരണസമിതിയുടെ 17.7.2003ലെ 11.ാം നമ്പർ തീരുമാനം**
2) സംഘത്തിന്റെ 5.10.2003 ലെ അപേക്ഷ
3) വയനാട് ജില്ലാ സഹകരണസംഘം ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാറുടെ 6.8.2003ലെ സി.എസ്.2868/2003 നമ്പർ കത്ത്

കേരള സംസ്ഥാനം മുഴുവൻ പ്രവർത്തന പരിധിയുള്ള മലബാർ റീജിയണൽ ഹോൾട്ടി കൾച്ചറൽ പ്രൊഡ്യൂസേഴ്സ് പ്രോസസിംഗ് ആന്റ് മാർക്കറ്റിംഗ് സഹകരണസംഘം ലി.ന,4436 (ഹോപ്കോ) ഉൽപ്പാദിപ്പിക്കുന്ന ജൈവ, ജൈവശ്രീ എന്നീ വളങ്ങൾ സംസ്ഥാനത്തെ പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണസംഘങ്ങൾ നടത്തുന്ന വളം വിതരണകേന്ദ്രങ്ങൾ, പ്രാഥമിക മാർക്കറ്റിംഗ് സഹകരണസംഘങ്ങൾ, സഹകരണ സ്റ്റോറുകൾ, കേരള സംസ്ഥാന സഹകരണ മാർക്കറ്റിംഗ് ഫെഡറേഷൻ എന്നിവ വഴി വിതരണം ചെയ്യുന്നതിനു മേൽപ്പറഞ്ഞ സംഘങ്ങൾക്ക് നിർദ്ദേശം നൽകുന്നതിന് സംഘം ഭരണസമിതി സൂചന ഒന്നിലെ തീരുമാനപ്രകാരം വയനാട് ജില്ലാ സഹകരണസംഘം ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാർ മുഖേന സഹകരണസംഘം രജിസ്ട്രാർക്ക് അപേക്ഷ സമർപ്പിച്ചിട്ടുണ്ട്.

മേൽവളങ്ങൾ മറ്റ് സഹകരണസംഘങ്ങൾ വഴി വിപണനം ചെയ്യുന്നതിലൂടെ ഉൽപ്പാദക സംഘത്തോടൊപ്പം വിപണനം നടത്തുന്ന സംഘങ്ങളുടെയും ബിസിനസ്സ് വർദ്ധിപ്പിക്കുകയും കർഷകർക്ക് പ്രയോജന പ്രദമായിരിക്കുകയും ചെയ്യുമെന്ന് കാണുന്നു.

ഈ സാഹചര്യത്തിൽ, ഹോപ്കോ ഉൽപ്പാദിപ്പിക്കുന്ന ജൈവ, ജൈവശ്രീ എന്നീ വളങ്ങൾ സംസ്ഥാനത്തെ മേൽപറഞ്ഞ സഹകരണ സംഘങ്ങൾ വാങ്ങി വിതരണം നടത്തുവാൻ താൽപര്യപ്പെടുന്നു.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ എം.പി.(4) 32108/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 21.3.2003

സർക്കുലർ നമ്പർ 47/2003

വിഷയം : **മലബാർ റീജിയണൽ ഹോർട്ടി കൾച്ചറൽ പ്രൊഡ്യൂസേഴ്സ് പ്രോസസ്സിംഗ് ആന്റ് മാർക്കറ്റിംഗ് സഹകരണസംഘം ലി. നം.4436 (ഹോപ്കോ) ഉൽപ്പാദിപ്പിക്കുന്ന കൽപ്പതരു വെളിച്ചെണ്ണയുടെ വിൽപ്പന പ്രോൽസാഹിപ്പിക്കുന്നതിന് സഹകരണസംഘങ്ങൾക്ക് നിർദ്ദേശം നൽകുന്നത് സംബന്ധിച്ച്.**

സൂചന : **1) സംഘം ഭരണസമിതിയുടെ 17.7.2003 ലെ 10 ാം നമ്പർ തിരുമാനം**
2) സംഘത്തിന്റെ 19.7.2003 ലെ അപേക്ഷ
3) വയനാട് ജില്ലാ സഹകരണസംഘം ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാറുടെ 24.7.2003 ലെ സി.എസ്./2634/2003 നമ്പർ കത്ത്

കേരള സംസ്ഥാനം മുഴുവൻ പ്രവർത്തന പരിധിയുള്ള മലബാർ റീജിയണൽ ഹോർട്ടികൾച്ചറൽ പ്രൊഡ്യൂസേഴ്സ് പ്രോസസ്സിംഗ് ആന്റ് മാർക്കറ്റിംഗ് സഹകരണസംഘം ലി.ന.4436 (ഹോപ്കോ) ഉൽപ്പാദിപ്പിക്കുന്ന കൽപ്പതരു എന്ന ബ്രാന്റ് നാമത്തിലുള്ള വെളിച്ചെണ്ണ സംസ്ഥാനത്തെ സഹകരണ സ്റ്റോറുകൾ, പ്രാഥമിക വായ്പാ സഹകരണസംഘങ്ങൾ നടത്തുന്ന ഉപഭോക്തൃ വിപണന കേന്ദ്രങ്ങൾ, സഹകരണ കൺസ്യൂമർ ഫെഡറേഷൻ, നീതിസ്റ്റോറുകൾ എന്നിവ വഴി വിൽപ്പന പ്രോത്സാഹിപ്പിക്കുന്നതിന് സംസ്ഥാനത്തെ എല്ലാ സഹകരണസംഘങ്ങൾക്കും നിർദ്ദേശം നൽകുന്നതിന് സംഘം ഭരണസമിതി സൂചന ഒന്നിലെ തീരുമാനപ്രകാരം വയനാട് ജില്ലാ സഹകരണസംഘം ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാർ മുഖേന സഹകരണസംഘം രജിസ്ട്രാർക്ക് അപേക്ഷ സമർപ്പിച്ചിട്ടുണ്ട്.

കേര കർഷകർക്കും, കേരളത്തിലെ സാധാരണ ഉപഭോക്താക്കൾക്കും സഹായകമായ രീതിയിൽ, ശുദ്ധമായ മലബാർ കൊപ്ര ഉപയോഗിച്ച് ഹോപ്കോ ഉൽപ്പാദിപ്പിക്കുന്ന കൽപ്പതരു എന്ന ബ്രാന്റ് നാമത്തിലുള്ള വെളിച്ചെണ്ണയുടെ വിപണനം ശുദ്ധമായ വെളിച്ചെണ്ണ ന്യായമായ വിലക്ക് ലഭ്യമാക്കുക എന്ന ലക്ഷ്യത്തോടുകൂടിയുള്ളതാണെന്ന് കാണുന്നു.

ഈ സാഹചര്യത്തിൽ, ഹോപ്കോ ഉൽപ്പാദിപ്പിക്കുന്ന കൽപതരു എന്ന ബ്രാന്റു നാമത്തിലുള്ള വെളിച്ചെണ്ണ സംസ്ഥാനത്തെ മേൽപ്പറഞ്ഞ എല്ലാ സഹകരണസംഘങ്ങൾക്കും വാങ്ങി വിൽപ്പന നടത്തുവാൻ താൽപര്യപ്പെടുന്നു.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്ജ്

നമ്പർ : സഹകരണസംഘം രജിസ്ട്രാറാഫീസ്,
തിരുവനന്തപുരം, തീയതി

സർക്കുലർ നമ്പർ : 27/2004

വിഷയം : **എസ്.സി/എസ്.റ്റി. ഫെഡറേഷൻ – ആയുർധാര ഫാർമസ്യൂട്ടി**

ക്കൽസിന്റെ ഏജൻസി എടുക്കുന്നതിനു സഹകരണ സംഘങ്ങൾക്കു നിർദ്ദേശം നൽകുന്നതു – സംബന്ധിച്ച്

സൂചന : **എസ്.സി/എസ്.റ്റി. ഫെഡറേഷൻ എം.ഡി. യുടെ 26–07–2004 ലെ ജി. 672/04/7 സി. ആർ. നമ്പർ കത്ത്.**

കേരളത്തിലെ പട്ടികജാതി പട്ടികവർഗ്ഗ സഹകരണസംഘങ്ങളുടെ അപ്പെക്സ് സ്ഥാപനമായ കേരള സംസ്ഥാന പട്ടികജാതി പട്ടികവർഗ്ഗ വികസന സഹകരണ ഫെഡറേഷന്റെ ആഭിമുഖ്യത്തിൽ കേന്ദ്ര–സംസ്ഥാന സർക്കാരുകളുടെയും, എൻ.സി.ഡി.സി. യുടെയും സാമ്പത്തിക സഹായത്തോടെ 2 കോടി രൂപ മുടക്കി തൃശ്ശൂർ, അഞ്ചേരിയിൽ സ്ഥാപിച്ചിട്ടുള്ള ആയുർധാര ഫാർമസ്യൂട്ടിക്കൽസ് 250 ൽപ്പരം ഗുണമേന്മയുള്ള, ജി.എം.പി. അംഗീകാരമുള്ളതുമായ ആയുർവ്വേദഔഷധങ്ങൾ ഉൽപ്പാദിപ്പിക്കുന്നു. എല്ലാ സഹകരണ സംഘങ്ങൾക്കും ആയുർധാര ഏജൻസി അനുവദിക്കുന്നതിനുള്ള ഒരു പ്രത്യേക പദ്ധതി ഫെഡറേഷൻ ആവിഷ്കരിച്ചിരിക്കുന്നു. ടി പദ്ധതിയിലെ നിബന്ധനകളും ഏജൻസി ലഭിക്കുന്നതിനുള്ള അപേക്ഷയുടെ മാതൃകയും അനുബന്ധങ്ങളും ഇതോടൊന്നിച്ച് ഉൾപ്പെടുത്തിയിരിക്കുന്നു.

സംസ്ഥാനത്തെ സഹകരണ സംഘങ്ങളുടെയും കേരള സംസ്ഥാന പട്ടികജാതി/പട്ടികവർഗ്ഗ വികസന ഫെഡറേഷന്റെ ആഭിമുഖ്യത്തിൽ നടത്തുന്ന ആയുർധാര മരുന്നുകളുടെ ഏജൻസി എടുക്കുന്നതിനു ഇതിനാൽ അനുവദിച്ചിരിക്കുന്നു.

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്

നമ്പർ : സി.എസ്. (3) 47855/04

സഹകരണസംഘം രജിസ്ട്രാറാഫീസ്,
തിരുവനന്തപുരം, തീയതി 31–12–2004

സർക്കുലർ നമ്പർ 48/04

വിഷയം : **നീതി സ്റ്റോർ സ്കീം നടപ്പിലാക്കുന്നതിനായി സംഘങ്ങളെ തിരഞ്ഞെടുക്കുന്നതിനും പ്രവർത്തനനാനുമതി നൽകുന്നതും സംബന്ധിച്ച്**

സൂചന : **1. സർക്കാരിന്റെ 11–06–97 ലെ ജി.ഒ. (എം.എസ്.) നമ്പർ 79/97/സഹ–ാം നമ്പർ ഉത്തരവ്**

2. ഈ ഓഫീസിലെ 05–06–97 ലെ സി.എസ്. (3) 9703/97–ാം നമ്പർകത്ത്

സൂചന ഒന്നിലെ സർക്കാർ ഉത്തരവും ഈ ഓഫീസിലെ സൂചന രണ്ടിലെ കത്തു പ്രകാരവും സംസ്ഥാനത്ത് പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ മുഖേന നീതിസ്റ്റോറുകൾ അനുവദിക്കുന്നതിന് ജില്ലാ ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാറൻമാർക്ക്ക് നിർദ്ദേശം നൽകിയിരുന്നു. എന്നാൽ പല ജില്ലകളിലും പ്രാഥമിക കാർഷിക വായ്പാ സഹകരണ സംഘങ്ങൾ അല്ലാത്ത സഹകരണ സംഘങ്ങൾക്കും നീതി സ്റ്റോറിന് അനുവാദം നൽകുന്നതായി ശ്രദ്ധയിൽ പെട്ടിട്ടുണ്ട്. സൂചനയിലെ സർക്കാർ ഉത്തരവും മാർഗ്ഗനിർദ്ദേശങ്ങളും അനുസരിച്ച് നീതി സ്റ്റോറുകൾക്ക് അനുവാദം നൽകാൻ ശ്രദ്ധിക്കേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

AUDIT

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ACT

[*CHAPTER VIII

PART A AUDIT

S63. Director of Co-operative Audit :- (1) The Government shall, by notification in the official Gazette, appoint a person to be the Director of Co-operative Audit with jurisdiction over the whole of the State.

(2) The qualification and the terms and conditions of the person to be appointed as the Director of Co-operative Audit shall be such, as may be prescribed.

(3) The Government may by general or special order, confer on any officer all or any of the powers of the Director of Co-operative Audit under this Act.

(4) It shall be the duty of the Director of Co-operative Audit to audit or to cause to be audited through persons authorised by him, the accounts of every society, at least once in each year.

S64. Scope of audit, powers of the Director of Co-operative Audit and procedure for audit:- (1) The audit shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society concerned and such other audit matters, as may be prescribed.

(2) For the purpose of audit, the Director of Co-operative Audit or the person authorised by him under Section 63 shall have the following powers, namely:-

(a) he shall, at all reasonable times, have access to all the books, accounts, documents, papers and all other relevant records, securities, cash and other properties belonging to, or in the custody or control of the society;

(b) he may summon any person in possession of or responsible for the custody of any such books, accounts, documents, papers, other records, securities cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof or, where there is no working office for a society, at the office of the Director of Co-operative Audit or at the office of any of his subordinate officers, as may be specified by him; and

(c) such other powers as may be prescribed.

(3) Every person who is or has been, at any time, an officer or employee of the society and every member and past member of the society, who is in possession of any information and records in regard to the transactions and working of the society, shall furnish such information in regard to the transactions and working of the society, as the Director or the person authorised by the Government under sub-section (3) of Section 63, may require.

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* Substituted by Act 1 of 2000

(4) The financial statement and other details required for the completion of audit shall be prepared by the society, within three months from the date completion of the year and the fact shall be reported to the Director of Co-operative Audit or to the person authorised by him in this behalf.

(5) The audit shall be commenced within one month from the date of receipt of the report under sub-section (4) by the Director of Co-operative Audit or the person authorised by him, as the case may be, and shall be completed within a period of nine months.

(6) The amount of fee for the audit of accounts of society for each year shall be such, as may be fixed by the Director of Co-operative Audit, in accordance with the rules made in this behalf.

(7) The fee shall be paid by the society concerned within thirty days of intimation thereof and in case of non-payment of the fee within the period it shall be recoverable in the manner specified in Section 79.

(8) The procedure for payment of the fee shall be such, as may be prescribed.

(9) If the result of the audit held under Section 63 discloses any defects in the working of a society the Director of Co-operative Audit may bring such defects to the notice of the society and if the society is affiliated to another society, also to the notice of that other society.

(10) If the result of the audit held under Section 63 discloses any serious defects in the working of the society, the Director of Co-operative Audit or the person authorised by him shall communicate the same forth with to the Registrar for immediate further action.

(11) The Director of Co-operative Audit may, by order in writing, direct the society or its officers to take such action, as may be specified in the order, within the time mentioned therein to rectify the defects disclosed in the audit, under intimation to the Registrar.]

NOTES

The above provisions will come into effect only when notified by the Government later. Until then earlier provisions will prevail, which is given below.

CHAPTER VIII
AUDIT, INQUIRY, INSPECTION, AND SURCHARGE

S63. Audit:- (1) The Registrar shall Audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every society at least once in each year.

(2) The audit under sub-section (1) shall include an examination of over due debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the society.

(3) The Registrar or the person authorised by him under sub-section (1) shall at all reasonable times have access to all the books, accounts, documents, papers, securities, cash or

other properties belonging to or in the custody of the society and may summon any person in possession of or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(4) Every person who is, or has at any time been, an officer or employee of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorised by him under subsection (1) may require.

(5) The result of any audit under subsection (1) shall be communicated to the society within six months of the date of the audit.

(6) Every society shall pay to the Government such fee for the audit of its accounts for each year as may be fixed by the Registrar in accordance with the rules made in this behalf and the fee levied for audit shall be recoverable in the manner specified in Section 79.

S64. Communication of defects in audit to societies:- (1) If the results of the audit held under Section 63 discloses any defects in the working of a society, the Registrar may bring such defects to the notice of the society and if the society is affiliated to another society also to the notice of that other society.

(2) The Registrar may, by order in writing, direct the society or its officers to take such action as may be specified in the order within the time mentioned therein to remedy the defects disclosed in the audit.

RULES

R64. Audit :- (1) The audit under Section 63 shall in all cases extend back to the last date of the previous audit and shall be carried out upto the last date of [*the year] immediately preceding the audit or where the [*Director of Co-operative Audit] so directs in the case of any particular society or class of societies, such other date as may be specified by the [*Director of Co-operative Audit.]

(2) The auditor shall submit an audit memorandum in the form prescribed by the [*Director of Co-operative Audit] on the accounts examined by him and on the Balance Sheet and final accounts as on the date for the period upto which the accounts have been audited and shall state whether in his opinion and to the best of his information and according to the explanations given to him, the said accounts give all the information required by the Act and give a true and fair view:-

(i) in the case of the balance sheets of the state of society's affairs as at the end of the year or any other subsequent date to which the accounts are made up and examined by him and

(ii) in the case of the profit and loss account of the profit or loss for the year or the period covered by the audit, as the case may be.

(3) The audit memorandum shall state:-

(a) whether the Auditor had obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;

* Substituted by SRO 380/2000

(b) whether in his opinion, proper books of accounts, as required by the Act, these rules and the bye-laws of the society have been kept and regularly maintained by the society so far as it appears from the examination of these books; and

(c) whether the balance sheet and the final accounts, examined by him are in agreement with the books of accounts and returns of the society.

(4) Where any of the matters referred to in sub-rule (3) are answered in the negative or with a qualification, the persons who does the audit shall specify the reasons for the answers in the audit memorandum.

(5) The audit memorandum shall also contain schedules with full particulars of:-

(i) all transactions which appear to be contrary to the provisions of the Act, the rules or the bye-laws of the societies;

(ii) all sums which ought to have been, but have not been brought into account, by the society;

(iii) any material impropriety or irregularity in the expenditure or in the realisation of moneys due to the society;

(iv) any money or property belonging to the society which appears to the auditor to be bad or doubtful debt;

(v) an audit classification statement prepared in accordance with the instructions issued by the Registrar from time to time; and

(vi) any other matters specified by the Registrar on this behalf.

(6) Within six months of the date of audit the [*Director of Co-operative Audit] shall grant to the concerned society and audit certificate and a copy of the audit memorandum specified in sub-rule (2) duly signed by him. While communicating the audit memorandum, the [*Director of Co-operative Audit] may modify or expunge any portion thereof which appears to him to be objectionable or not justified by facts.

[*Provided that the annual statement of accounts of each year shall be prepared by the society within three months of the completion of that year and the fact that shall be reported by the Chief Executive to the Director of Co-operative Audit or to the person authorised in this bahalf. The lapse on the part of the Chief Executive in this regard will be considered as an offence under sub-section (4) of section 94 of the Act.]

(7) The society shall [**publish or exhibit in the Notice Board of the society.]

(i) the audit certificate.

(ii) the statement showing the receipts and disbursements for the year;

(iii) the profit and loss account; and

(iv) the balance sheet in the manner specified by the [*Director of Co-operative Audit] and shall also keep them open for inspection by any member of the society. The summary of the audit memorandum shall also be read out at the general body meeting of the society.

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* Inserted and substituted by SRO 380/2000

** Inserted by SRO 1317/90

[*(8) The Director of Co-operative Audit shall have powers to issue directions to the societies to prepare and submit any other statements and schedules and call for any details which are necessary for the conduct and completion of audit.]

R65. Levy of Audit fees :- (1) Every Co-operative Society shall pay to Government within one month of receipt of the annual audit certificate and audit fee calculated on the Working Capital as on the last day of the Co-operative year to which the audit relates or on the total sales during the year on the gross income during the year as the case may be, as shown below:-

Type of Society ***(1)***	***Audit fees to be calculated*** ***(2)***
(1) Credit Societies (Excepting [*Primary Co-operative Agricultural and Rural Development Bank,] Housing Societies and House Mortgage Banks)	On Working Capital
(2) [*Primary Co-operative Agricultural and Rural Development Bank,] House Mortgage Banks, Housing Societies.	On the aggregate of loans issued and that recovered during the year under audit.
(3) Societies having credit and non-credit activities	On working capital or on sale proceeds of goods whichever is higher.
(4) Societies dealing in goods (excepting Coir Societies)	On sale proceeds.
(5) Coir Co-operative Societies	On proceeds of Coir sold as owners as well as on the commission realised on goods sold as agents.
(6) Transport Societies	On hire charges collected and sale proceeds of articles.
(7) Other Societies	On gross income.

If any doubt arises as to which of the categories, a particular co-operative society is to be included for the purpose of calculation of audit fees, the matter shall be decided by the [*Director of Co-operative Audit.]

[**xxx]

(2) (a) The [*Director of Co-operative Audit] shall be competent to appoint one or more Auditors specially or exclusively for the audit of the accounts of one or more Societies, each having a Working Capital or annual sales exceeding [#Rs.5 lakhs.]

* Inserted by SRO 380/2000
**Omitted by SRO 510/69
Substituted by SRO 132/85

[*(b) Where the Director of Co-operative Audit appoint Auditors under the forgoing sub-rule the fee/cost of such persons shall be payable by such society or societies, the entire or the proportionate cost of the staff as may be determinated by the Director of Co-operative Audit.]

(3) The following classes of societies are exempted from the payment of audit fees-

(a) All Co-operative Societies of which all or a majority of the members are Harijans [**or Girijans.]

(b) All Farming Societies.

(c) All Social Welfare Societies.

(d) Any Society or group of societies which has its accounts audited at its own expense by an officer of the Co-operative Department by virtue of the provisions contained [#in sub-rule (2)], or under an arrangement approved by the Registrar to audit the accounts of the society.

(e) Any society for the 1st year of audit, irrespective of the date of commencement of business.

[#(f) Any Weavers' Society or Coir Co-operative Society or Housing Society, or Primary Society formed for the benefit of fishermen until it has completed the sixth Co-operative year after its commencement of business.]

(g) Any credit society the working capital of which does not exceed Rs. 2000 and any other society the sales of gross income of which does not exceed Rs. 10,000/-

[*(4) The audit fees for the purpose of sub-rule (1), shall be calculated at the rate of 50 paise for every 100 rupees or part thereof on the working capital, the value of sales or the gross income, as the case may be, provided that the maximum audit fee payable by the society shall not exceed [##Rs. 25,000.]]

NOTES

Since amendment vide SRO 380/2000 has already come into existence the audit by Registrar is beyond the power conferred upon him by the Rules. Hence amendment in the Rules or the commencement of the provisions vide Act 1 of 2000 is necessary for the proper execution and delegation of the duties as envisaged by the Act.However audit work is carried out by the Department without interruption.

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* Substituted by SRO 380/2000

** Inserted by SRO 1178/85

Substituted by SRO 510/69

Substituted by SRO 846/2002

CASE LAWS

Chartered Accountants have special aptitude in the matter of audits Article 14 and 19 and Section 44 (AB) of Income Tax Act, 1961 - Chartered Accountants, by reason of their training have their special aptitude in the matter of audits. It is reasonable that they, who form a class by themselves, should be required to audit the accounts of business whose income exceeds Rs. 40 lacs and professionals whose income exceeds Rs. 10 lacs in any given year. There is no material on record, and indeed in our view, there can not be, that an Income Tax Practitioner has the same expertise as chartered Accountants in the matter of accounts. For the same reason the challenge under Article 19 must fail.

1999 (2) KLT SN 30 SC DB Venkata Rao v/s Union of India

Claim on the rate of depreciation Income Tax Act - Sections 148 and 147 - Claim on the rate of depreciation cannot be said to failure to disclose full and true material facts-Re-assessment of the income, escaped assessment, after 4 years is not proper.

The claim on the rate of depreciation cannot be held to be failure to disclose full and true material facts necessary for assessing. It canot be stated that this is the duty of the assessee to point out that he had made a wrong claim in the rate of depreciation. The claim was made as the assessee understood as leviable, according to law. Tha material facts having been place before the Assessing Officer it is the duty of the officer to draw inference from those material facts disclosed, on his failure he burden cannot be shifted to the assessee to hold that there is a failure to disclose the material facts. this provision is a special or extra ordinary nature since it empowers reopening of and assessment after the period of limitation of four years an hence must satisfy the test strictly. *In this judgment* **1986 159 ITR 624 Indo-Aden Salt Manufacturing and Trading Co. P Ltd v/s C.I.T.** *and* **1979 (117) ITR 719 Renusagar Power Co. Ltd v/s I.T.O.** *are distinguished.*

1999 (1) KLT 21 Pala Marketing Co-operative Society v/s State of Kerala

The society engaged in the marketing of agricultural produce Income Tax Act - Section 80 P (2) (a) (ii) 81 - The society engaged in the marketing of agricultural produce of its members would mean not only such societies which deal with the produce raised by the members who are individuals or but also societies which are members thereof who may have purchased such goods from the agriculturists.

The expression 'marketing' is no expression of wide import, it involves exchange functions such as buying and selling, physical functions such as storage, transportation processing and other comercial activities such as standardisation, financing, marketing intelligence etc. Such activities can be carried on by a Apex Society rather than a primary society. The only condition required for qualifying the asesse's business must be that of marketing, the marketing must be of agricultural produce and the

agricultural produce must have belonged to the members of the assessee society before they came up for marketing by it, whether on its own account or on account of the members themselves. Thus, there is no scope to limit the exem ption. The Co-operative societies are engaged in marketing of an agricultural produce both of its members as well as of non members, In the latter case, there is no difference between a Co-operative society or any other business organisation and so will not be entitled to exemption. The exemption is intended to cover all cases where a Co-operative society is engaged in marketing agricultural produce of its members. S.80 P does not in effect limit the scope of the exemption to agricultural produce raised by members alone but includes agricultural produce raised by other v/s but belonging to co-operative Societies. The contract in the said provision is with reference to the marketing of agricultural produce of the members of the society or that purchased from non members. *In this judgment* **AIR 1993 SC 2575 = 1994 Supp (2) SCC 96 = 201 ITR 338 Assam Co-operative Apex Marketing Society Ltd v/s Commissioner of Income Tax** *is overruled and* **ITR No. 241/ 75 C.I.T. Delhi v/s M/s National Agricultural Co-operative Marketing Federation Ltd, Delhi, 182 ITR 53 C.I.T. v/s Ryats Agricultural Produce Co-operative Marketing Supply & Marketing Federation Ltd, 193 ITR 79 Meenachi Rubber Marketing & Processing Co-operative Society Ltd v/s C.I.T., 193 ITR 624 C.I.T. v/s Kerala State Co-operative Marketing Federation Ltd** *and* **144 ITR 74 C.I.T. v/s Tamil Nadu State Co-operative Marketing Federation Ltd** *are approved.*

1998 (1) KLT 933 FB Kerala State Co-operative Marketing Federation v/s Commissioner of Income Tax

Replacement by purchase of major components by new ones Income Tax Act - Section 37(1) - Assessee running sugar Plant - Replacement by purchase of major components by new ones - Simply because each equipment changes form or shape of the sugar can juice, it does not mean that sugar is produced by each equipment or machinery-Is a revenue expenditure. The sugar mill is a gigantic plant.

The asessing officer should not have been swayed away by the extent of expenditure, incurred on major comonents purchased for replacing the old ones. The vital question is whether the sugar mill can work in the absence of machiney, expenditure incurred on which is claimed by the assessee. This question has to be answered in negative. For the manufacture of sugar, all the machinery claimed are necessary. No doubt, the expenditure was incurred on the principal componentws of the sugar mill, still, however it would be wrong to hold each machinery as an independent until. All machinery put together complete the sugar plant. *In this judgment* **1966 AC 224 PC B.P.Australia Ltd v/s Commissioner of Taxation of the Commonwealth of Australia** *and* **(1989) 177 ITR SC Alembic Chemical Works Co. Ltd v/s C.I.T. Gujarat** *are referred to.*

1998 (1) KLT 455 = ILR 1998 (2) Ker 576 DB Commisioner of Income Tax v/s Co-operative Sugars Ltd

Interest accrued on over due bills Income Tax Act - Section 5 - Interest accrued on over due bills - Not considered as "interest on loans and advances" and not liable to be taxed. *In this judgment* **(1988) 172 ITR 24 C.I.T. v/s State Bank of India** *is referred to.*

ILR 1997 (1) Ker 789 DB The commissioner of Income tax v/s The State Bank of Travancore

Income from the business of centrifuging rubber lathes Income Tax Act - Section 80 J and 80 HH - Assessee deriving income from the business of centrifuging rubber lathes - Being an industrial undertaking manufacturing or producing articles, asessee entitled to the benefit under section 80 J and 80 HH. *In this judgment* **1992 (Vol. 193) ITR 908 Meenachil Rubber Marketing and Processing Co-operative Society Ltd v/s Commissioner of Income Tax** *is reffered to.*

ILR 1996 (2) Ker 698 Commissioner of Income tax v/s M/s Anam Latex Industries (P) Ltd

Margin money in deposit forfeited by the Bank would be treated as its income Income Tax Act, 1961 - Margin money received by the Bank, from its constituents at the time of purchase of bonds - The 'margin money in deposit' forfeited by the Bank would be treated as its income.

The Bank imdertook to purchase the securities for and on behalf of its constituents, The Bank's practice was to take a deposit before purchasing the security, which was liable to be forfeited in case of default. The money was received and forfeited incidentally and in the course of day to day banking business. After the forfeiture, the money became Bank's own money. The Income Tax Officer was right in treating this forfeited money as income of the assessee earned in usual course of banking business. the sequrities purchased by the Bnak in its own name became the property of the bank f the securities were ultimately sold, any profit made would be profit earned by the Bank. The cost of acquisition of the security will be the price actually paid for it.

1996 (2) KLT SN 18 P 19 DB SC Commissioner of Income tax v/s Lakshmi vilas Bank

Cost of advertisement Income TaxAct - Section 37 (1) - Expenditure laid out wholly or exclusively for the purpose of business would include the cost of advertisement - Once it is found that the expenditure has been as, a matter of fact, incurred for publicity or advertisement, it is not for the department, to consider whether commercial expediency justified the expenditure.

The asessee commissioned its 'Relay' project in January, 1982 Chief Minister of Kerala was invited. Press conference were held and it brought out a newspaper supplement. Those activities cased an expenditure of Rs. 2, 38, 689/--and the assessee claimed deduction as business expenditure under the head of advertisment. In the light of the above facts as found by a Tribunal, that the Tribunal has correctly held that the expenditure incurred by the asessee is a revenue expenditre allowable

as business expenditure.

1995 (1) KLT 600 = ILR 1995 (2) Ker 43 DB Commissioner of Income Tax v/s Aluminium Industries Ltd

Subsidies granted to industries by Government Income Tax Act - Sections 32 and 43 (1) - Depreciation - Subsidies granted to industries by Government - Are not deductible from actual cost under s.43(1).

The expression 'actual cost' needs to be interpreted liberally. The subsidy of the nature granted by Govt. to industries, does not partake of the incidents which attract the conditions for their deductibility from 'actual cost'. Government subsidy is an incentive not for the specific purpose of meeting a portion of the cost of the assets, though quantified as or geard to a percentage of such cost. It does not partake of the character of a payment intended either directly or indirectly to meet the 'actual cost'.*In this judgment* **1983 Tax LR 209 Lucknow Producers co-operative Milk Union Ltd v/s Commissioner of Income Tax** *is approved.*

1995 (1) KLT 144 = 1994 (3) SCC 535 DB Commissioner of Income tax v/ P.J. Chemicals

The interest accrued on the strict advance Income Tax Act - Sections 2, 28, 36 and 145 - The interest which had accrued on the strict advance has to be treated as income of the assessee and as such taxable. *In this judgment* **1986 (2) SCC 11 = 158 ITR 102 State Bank of Travancore v/s commissioner of Income tax** *and* **186 ITR 187 State Bank of Travancore v/s Commissioner of Income Tax** *are relied on and* **1 JTR 94 Commissioner of Income Tax v/s Maharajadhiraj Remeshwar Singh** *is distinguished.*

1994 (2) KLT 303 = 1994 (4) SCC 375 DB Kerala Corporation v/s Commissioner of Income Tax

Audit report There is no provision of law under which the contents of the audit report could be presumed to be correct.

AIR 1970 Punj 203 Banta Singh v/s Ajman Imdad

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നമ്പർ എഡി.എൽ.2/43923/02 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്, തിരുവനന്തപുരം, തീയതി 4.12.02

സർക്കുലർ നമ്പർ 52/02

വിഷയം : **സഹകരണ വകുപ്പ് കേരളത്തിലെ പ്രാഥമിക വായ്പാ സഹകരണസംഘങ്ങളുടെ കുടിശ്ശിക ആഡിറ്റ് തീർക്കുന്നത്**

സൂചന : **1. 13.11.02 ൽ കൂടിയ ജില്ലാ തല ജനറൽ ആന്റ് ആഡിറ്റ് സഹകരണ സംഘം ജോയിന്റ് രജിസ്ട്രാറുടെ സമ്മേളനത്തിലെ തീരുമാനങ്ങൾ**
2. 31.10.02 ലെ ജില്ലകളിൽ നിന്നുളള ആഡിറ്റ് പ്രോഗ്രസ് റിപ്പോർട്ട്

ആഡിറ്റ് വിഭാഗം സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർമാരിൽ നിന്നുളള ഒക്ടോബർ മാസത്തിലെ റിപ്പോർട്ട് പ്രകാരം സംസ്ഥാനത്തൊട്ടാകെ 2000 - 01 വരെ 1630 വായ്പാ സഹകരണസംഘങ്ങളുടെ 1541 ആഡിറ്റുകൾ കുടിശ്ശികയാണെന്ന് കണ്ടിരിക്കുന്നു. പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളുടെ ആഡിറ്റ് കുടിശ്ശിക തീർക്കുന്നത് ടി സംഘങ്ങളുടെ പ്രവർത്തന വൈകല്യങ്ങൾ യഥാസമയം കണ്ടുപിടിക്കുന്നതിനും അവയെ ഫലപ്രദമായി പരിഹരിക്കുന്നതിനും അതുവഴി ടി സംഘങ്ങളുടെ പ്രവർത്തനക്ഷമത വർദ്ധിപ്പിക്കുന്നതിനും സംഘങ്ങളുടെ സമഗ്ര വികസനത്തിനും സഹായകരമായിരിക്കും എന്നത് കണക്കിലെടുത്ത് ടി സംഘങ്ങളുടെ ആഡിറ്റ് കുടിശ്ശിക തീർക്കുന്നതിന് ഒരു തീവ്രയത്ന പരിപാടി കൈക്കൊളളുന്നതും ഉചിതമായിരിക്കുമെന്ന് കാണുന്നു. ആയതിനാൽ താങ്കളുടെ ജില്ലയിലുളള പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളുടെ 2001 2002 വരെയുളള ആഡിറ്റ് 31.3.2003 നകം തീർപ്പാക്കി ആഡിറ്റ് സർട്ടിഫിക്കറ്റുകൾ വിതരണം ചെയ്യുന്നതിന് ബന്ധപ്പെട്ട ആഡിറ്റ് സഹകരണ സംഘ അസിസ്റ്റന്റ് രജിസ്ട്രാർമാരും താങ്കളുടെ അടിയന്തിര നടപടികൾ സ്വീകരിക്കേണ്ടതാണ്. കുടിശ്ശിക നിവാരണം ചെയ്യുന്നതിന് ജില്ലയിലുളള ആഡിറ്റർമാരുടെ കൂട്ടായ സേവനമോ ഒറ്റയായ സേവനമോ സ്വീകരിക്കാവുന്നതാണ്. ഇക്കാര്യത്തിൽ മറ്റു സഹകരണ സംഘങ്ങളിൽ ആഡിറ്റ് നടത്തുന്നവരുടെ സേവനവും വിനിയോഗിക്കാവുന്നതാണ്. താങ്കൾ ഇപ്രകാരം സ്വീകരിച്ച നടപടികളുടെ വിവരം യഥാസമയം ഈ ആഫീസിലേയ്ക്ക് അറിയിക്കുകയും പുരോഗതി റിപ്പോർട്ട് ഓരോ മാസവും അയയ്ക്കുകയും ചെയ്യേണ്ടതാണ്. പ്രാഥമിക വായ്പാ സഹകരണ സംഘങ്ങളുടെ കുടിശ്ശിക നിവാരണം ചെയ്യുന്നതിൽ വീഴ്ച വരുത്തുന്ന പക്ഷം അതായത് വളരെ ഗൗരവപൂർവ്വം വീക്ഷിക്കേണ്ടതും ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥർക്കെതിരെ ശിക്ഷാ നടപടികൾ സ്വീകരിക്കുന്നതാണെന്ന് അറിയിക്കുന്നു.

ജെ.രവീന്ദ്ര രാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ ചാർജ്

നമ്പർ. എ.ഡി.എൽ(2) 2228/2003 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 23.1.2003

സർക്കുലർ നമ്പർ 5/2003

വിഷയം : **സഹകരണ വകുപ്പ് കംപ്യൂട്ടറിന്റെ തേയ്മാന ഫണ്ട് ആഡിററിൽ കണക്കാക്കുന്നതിന് മാർഗ്ഗ നിർദ്ദേശം നൽകുന്നത് സംബന്ധിച്ച്**

കമ്പ്യൂട്ടർ സ്ഥാപിച്ചിട്ടുള്ള സഹകരണ സ്ഥാപനങ്ങളിലെ ആഡിറ്റ് നടത്തുന്ന അവസരത്തിൽ കമ്പ്യൂട്ടറിന്റെ തേയ്മാന ഫണ്ട് കണക്കാക്കുന്നത് എല്ലാസഹകരണ സ്ഥാപനങ്ങളിലും ഒരേ രീതിയിലല്ല എന്നത് ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. പല ആഡിററർമാരും ഇക്കാര്യം സഹകരണ സംഘം രജിസ്ട്രാരുടെ ശ്രദ്ധയിൽ കൊണ്ടുവരികയും ഒരു പൊതു മാർഗ്ഗ നിർദ്ദേശം ഇക്കാര്യത്തിൽ ആവശ്യമാണെന്ന് അറിയിക്കുകയും ചെയ്തിരിക്കുന്നു. ഈ സാഹചര്യത്തിൽ കമ്പ്യൂട്ടറിന്റെ തേയ്മാന ഫണ്ട് കണക്കാക്കുന്നതിന് താഴെ പറയു ന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

കമ്പ്യൂട്ടറിന്റെ തേയ്മാനം മൂന്ന് വർഷംകൊണ്ട് തീരത്തക്ക വിധത്തിൽ താഴെ പറയും പ്രകാരം കണക്കാക്കേണ്ടതാണ്.

ഒന്നാം വർഷം	34 ശതമാനം
രണ്ടാം വർഷം	33 ശതമാനം
മൂന്നാം വർഷം	33 ശതമാനം

മുകളിലെ നിർദ്ദേശങ്ങൾ കമ്പ്യൂട്ടർ സ്ഥാപിച്ചിട്ടുള്ള എല്ലാ വിഭാഗങ്ങളിലും പെട്ട സഹകരണ സ്ഥാപനങ്ങൾക്കും ബാധകമാണ്. സഹകരണസംഘങ്ങളിലെ ആഡിറ്റർമാർ തേയ്മാനഫണ്ട് കണക്കാക്കുമ്പോൾ ഇക്കാര്യം കർശനമായും പാലിച്ചിരിക്കേണ്ടതാണ്.

സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി

സർക്കുലർ നമ്പർ 28/2003

വിഷയം : **ആഡിറ്റ് സഹകരണ സ്ഥാപനങ്ങളുടെ അക്കൗണ്ട്സ് സ്റ്റേറ്റുമെന്റുകളും ഷെഡ്യൂളുകളും ആവശ്യരേഖകളും സമർപ്പിക്കാതിരിക്കുന്നത് സംബന്ധിച്ച്**

സഹകരണ സ്ഥാപനങ്ങളുടെ ആഡിറ്റ് യഥാസമയം കൃടിശ്ശിക കൂടാതെ നടത്തുക എന്നത് സ്ഥാപനങ്ങളുടെ സുഗമമായ പ്രവർത്തനത്തിന് അത്യന്താപേക്ഷിതമാണ്. സഹകരണ സ്ഥാപനങ്ങളിലെ നിയമാനുസൃത ആഡിറ്റ് ജോലികൾ സമകാലമാക്കുന്നതിനായിട്ടാണ് കെ.എസ്. ആർ 10ം ഭാഗം 156.ാം ചട്ടപ്രകാരം പ്രത്യേക സമകാല ആഡിറ്റർ തസ്തികകൾ സൃഷ്ടിക്കുന്നതും സഹകരണ ആഡിറ്റർമാരെ അത്തരം തസ്തികകളിൽ നിയമിയക്കുന്നതും, എന്നാൽ ആഡിറ്റ് കൃടിശിക കൂടാതെ നടക്കണമെന്നുണ്ടെങ്കിൽ സംഘം ഭാരവാഹികളുടെ ആത്മാർത്ഥമായ സഹകരണം കൂടി ലഭ്യമാകേണ്ടതുണ്ട്.

സംസ്ഥാനത്തെ ചില സഹകരണ സ്ഥാപനങ്ങൾ റിക്കാർഡുകളും

കണക്കുകളും യഥാസമയം എഴുതി തീർക്കാതിരിക്കുന്നതും ആണ്ടവസാന സ്റ്റേറ്റുമെന്റുകളും പട്ടികകളും കൃത്യസമയത്ത് തയ്യാറാക്കി സമകാല ആഡിറ്റർമാർക്ക് സമർപ്പിക്കാതിരിക്കുന്നതും ആഡിറ്റ് കുടിശിക വരുന്നതിന് കാരണമായി തീർന്നിട്ടുണ്ട്. ഇപ്രകാരം ആഡിറ്റർ കുടിശിക ഉണ്ടാകുന്നതായി സർക്കാരിന്റെ ശ്രദ്ധയിലും പെട്ടിരിക്കുന്നു. ആയതിനാൽ എല്ലാ സഹകരണ സ്ഥാപനങ്ങളും 1969 ലെ കേരള സഹകരണസംഘം ചട്ടം 33 ൽ അനുശാസിക്കുന്ന വിധത്തിലുള്ള എല്ലാ സ്റ്റേറ്റുമെന്റുകളും രജിസ്റ്ററുകളും ആവശ്യമായ മറ്റ് രേഖകളും തയ്യാറാക്കി കൃത്യമായി സമകാല ആഡിറ്റർക്ക് ലഭ്യമാക്കേണ്ട താണെന്നും സഹകരണ സ്ഥാപനങ്ങളുടെ മേൽപ്രകാരമുള്ള പിഴവുമൂലം ആഡിറ്റിൽ കുടിശിക ഉണ്ടാകാതെ നോക്കേണ്ടതാണെന്നും അനുശാസിക്കുന്നു.

സമകാല ആഡിറ്റർമാർ, ആഡിറ്റ് കുടിശിക തീർക്കുന്നതിനുവേണ്ടി യഥാസമയം റിക്കാർഡുകളും കണക്കുകളും എഴുതി തീർക്കാത്ത സംഘങ്ങളുടെ പേരിലും കൃത്യസമയത്ത് ആണ്ടവസാന ആഡിറ്റ് സ്റ്റേറ്റുമെന്റുകളും മറ്റും തയ്യാറാക്കി ആഡിറ്റർമാർക്ക് സമർപ്പിക്കാത്ത സംഘങ്ങളുടെ പേരിലും 1969 ലെ കേരള സഹകരണ സംഘം ചട്ടങ്ങൾ 29, 30, 33 എന്നിവയിൽ അനുശാസിക്കുന്ന പ്രകാരമുള്ള നിയമപരമായ നടപടികൾ കൈകൊള്ളേണ്ടതുമാണ്.

ജെ. രവീന്ദ്ര രാജു
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻ.ചാർജ്ജ്

നമ്പർ : എ.ജി.എൽ (2) 10657/2003

സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, 15–12–2003

സഹകരണ സംഘം രജിസ്ട്രാർ
തിരുവനന്തപുരം

ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ)
തൃശ്ശൂർ

സർ,

വിഷയം : **സ്കൂൾ/കോളേജ് സഹകരണസംഘങ്ങളുടെ കണക്ക് വർഷം സംബന്ധിച്ച്**

സൂചന : **21–04–2003 ലെ 22/2003–ാം നമ്പർ സർക്കുലർ**

സൂചന സർക്കുലർ പ്രകാരം സ്കൂൾ/കോളേജ് സഹകരണസംഘങ്ങളുടെ ഓഡിറ്റ് വർഷം ഏപ്രിൽ 1 മുതൽ മാർച്ച് 31 വരെയായി കണക്കാക്കുന്നതിനായി വ്യക്തമാക്കിയിട്ടുള്ള സാഹചര്യത്തിൽ സ്കൂൾ/ കോളേജ് സഹകരണസംഘങ്ങളുടെ വാർഷിക സ്റ്റോക്ക് പരിശോധന മാർച്ച് 31–ാം തീയതി നടത്തേണ്ടതാണെന്നും സ്കൂൾ/കോളേജ് സഹകരണ സംഘങ്ങളുടെ 2003 ജനുവരി 1 മുതൽ 2004 മാർച്ച് 31 വരെയുള്ള ഓഡിറ്റ് 15 മാസത്തേക്ക് ഒന്നിച്ച് നടത്തേണ്ടതാണെന്നും അറിയിച്ചു കൊള്ളുന്നു.

താങ്കളുടെ വിശ്വസ്തൻ
സഹകരണസംഘം രജിസ്ട്രാർക്കു വേണ്ടി

നമ്പർ : എ.ഡി. എൽ. (2) 19305/05 സഹകരണസംഘം രജിസ്ട്രാഫീസ്,
തിരുവനന്തപുരം, തീയതി : 28–05–2005

സർക്കുലർ നമ്പർ 15/2005

വിഷയം : **സഹകരണം – 2001 ലെ കാർഷിക കടക്കാർ (താൽക്കാലിക ആശ്വാസം) ആക്ട് – കാർഷിക കടങ്ങൾക്ക് മെമ്മോറിയവും, പലിശയിളവും – ആഡിറ്റ് വേളയിൽ കരുതൽ വയ്ക്കൽ – സ്വീകരിക്കേണ്ട നടപടികൾ – സംബന്ധിച്ച്.**

സൂചന : **1. സർക്കുലർ നമ്പർ 25/2004**
2. ജി.ഒ. (എം.എസ്) 310/04 റവന്യൂ തീയതി 15–10–2004
3. ഈ ആഫീസിലെ 29–04–2001 ലെ സി.ജി. (2) 24497/04 നമ്പർ പുറത്തെഴുത്ത്

2001 ലെ കേരള കാർഷിക കടക്കാർ താൽക്കാലിക ആശ്വാസ ആക്ടിന്റെ തുടർച്ചയായി 23–01–2004 മുതൽ ഒരു വർഷത്തേക്ക് വായ്പ തിരിച്ചടക്കുന്നതിന് മൊറട്ടോറിയവും ടി കാലയളവിൽ കാർഷിക വായ്പയ്ക്ക് അടയ്ക്കാനുള്ള പലിശയും പിഴപലിശയും സംഘത്തിന് സർക്കാർ റീഇംപേഴ്സ് ചെയ്ത് നൽകുന്നതിനും ഉത്തരവ് പുറപ്പെടുവിച്ചിട്ടുള്ളതാണ്.

സൂചന (2) പ്രകാരം, വയനാട് ജില്ലയ്ക്കുള്ള സ്പെഷ്യൽ പാക്കേജ് പദ്ധതി അനുസരിച്ച് 50,000/– രൂപ വരെയുള്ള കാർഷിക വായ്പകൾക്ക് 2000 മാർച്ച് 31 ന് ശേഷം 5 വർഷത്തേക്ക് പലിശയിളവ് ആനുകൂല്യം നൽകാൻ സർക്കാർ ഉത്തരവ് പുറപ്പെടുവിച്ചിട്ടുള്ളതുമാണ്.

സൂചന (3) പ്രകാരം 29–12–2001 ന് മുമ്പ് എടുത്തതും 23–01–2004 ൽ നിന നിൽക്കുന്നതുമായ വായ്പകൾക്കും ആനുകൂല്യത്തിന് അർഹതയുണ്ടെന്ന് വ്യക്തമാക്കിയിട്ടുണ്ട്.

മേൽ സാഹചര്യത്തിൽ സാഹചര്യത്തിൽ വയനാട് ജില്ലയൊഴികെയുള്ള ജില്ലകളിലെ കർഷകർക്ക് 23–01–2004 മുതൽ ഒരു വർഷത്തേക്ക് അവരെടുത്തിട്ടുള്ള കാർഷിക വായ്പക്ക് മോറട്ടേറിയം അനുവദിച്ചിട്ടുള്ളതിനാലും ടി കാലയളവിലെ പരിശയും പിഴ പലിശയും സർക്കാർ റീ ഇംമ്പേഴ്സ് ചെയ്ത് നൽകുമെന്നതിനാലും ടി തുക വായ്പക്കാരന്റെ കണക്കിൽ വരവ് വച്ച ശേഷം സർക്കാരിൽ നിന്നും ലഭിക്കാനുള്ളതായി റിപ്പോർട്ടിൽ കാണിക്കേണ്ടതും ടി പലിശ തുകയ്ക്ക് ആഡിറ്റിൽ പ്രത്യേക കരുതൽ വയ്ക്കുന്നതിൽ നിന്നും ഒഴിവാക്കുന്നതുമാണ്.

വയനാട് ജില്ലയിൽ സൂചന (2) പ്രകാരം പ്രഖ്യാപിച്ച പ്രത്യേക പാക്കേജ് പദ്ധതിയനുസരിച്ച് 01–04–2001 മുതൽ 31–03–2006 വരെയുള്ള 5 വർഷത്തെ പലിശ ബാദ്ധ്യത ഗവൺമെന്റ് ഏറ്റെടുത്തിരിക്കുന്ന സാഹചര്യത്തിൽ ടി തുക സർക്കാരിൽ നിന്നും ലഭിക്കാനുള്ളതായി സംഘം കണക്കുകളിൽ രേഖപ്പെടുത്തലുകൾ വരുത്തി ടി തുക സർക്കാരിൽ നിന്നും ലഭിക്കാനുള്ളതായി ആഡിറ്റിൽ പ്രത്യേകം റിസർവ്വ് വെയ്ക്കുന്നതിൽ നിന്നും ഒഴിവാക്കേണ്ടതാണ്. ആഡിറ്റ് കഴിഞ്ഞ സർട്ടിഫിക്കറ്റ് വിതരണം ചെയ്തിട്ടുള്ള സംഘങ്ങളിൽ പ്രത്യേകം പാക്കേജ് കാലയളവിലെ ആഡിറ്റ് ആണ് നടക്കുന്നതെങ്കിൽ ആ വർഷത്തെ ആഡിറ്റിൽ മുന്ന വർഷത്തെ പലിശ – പിഴപ്പലിശ എന്നീ ഇനങ്ങളിൽ സർക്കാരിൽ നിന്നും ലഭിക്കാനുള്ളതായി കാണിച്ചിട്ടുള്ള തുക,

അതാത് വർഷത്തെ ആഡിറ്റിലെ റിസർവ്വിൽ നിന്നും നീക്കാവുന്നതാണ്.

എന്നാൽ സർക്കാരിൽ നിന്നും ലഭിക്കാനുള്ളതായി കാണിച്ചിട്ടുള്ള തുകയിൽ, ഇതിനകം അടച്ച് തീർത്ത വായ്പകൾക്ക് ടി കാലയളവിലേക്ക് അർഹതപ്പെട്ട തുക വായ്പക്കാരന് തിരികെ നൽകുകയോ ടിയാന് സംഘത്തിലുള്ള മറ്റു വായ്പകളിൽ തട്ടിക്കിഴിക്കുകയോ ചെയ്തിട്ടുണ്ടെങ്കിൽ അത്തരം കേസുകൾക്ക് പ്രത്യേകം റിസർവ്വ് വയ്ക്കേണ്ടതാണ്.

വായ്പകൾ തിരിച്ചടയ്ക്കുന്നതിന് മൊറട്ടേറിയവും പലിശയിളവും അനുവദിക്കുന്ന സാഹചര്യത്തിൽ പ്രാഥമിക സഹകരണ സംഘങ്ങൾ ജില്ലാ സഹകരണ ബാങ്കുകളിൽ നിന്നും എടുത്തിട്ടുള്ള കാർഷിക വായ്പകളുടെ തിരിച്ചടവിലും കുറവ് വന്നിട്ടുള്ളതായി ശ്രദ്ധയിൽപ്പെട്ടിട്ടുള്ളതിനാൽ, ജില്ലാ സഹകരണ ബാങ്കുകളിലെ കുടിശ്ശിക വർദ്ധിക്കുന്നതിനും, നിഷ്ക്രിയ ആസ്തികളിൽ ഉൾപ്പെടുത്തി കരുതൽ വയ്ക്കേണ്ടി വരുന്നതു കാരണവും ലാഭ-നഷ്ടക്കണക്കു പ്രകാരം ജില്ലാ സഹകരണ ബാങ്കുകൾ നഷ്ടത്തിലാകാൻ സാദ്ധ്യതയുള്ളതായും ശ്രദ്ധിക്കപ്പെട്ടിട്ടുണ്ട്.

ഈ സാഹചര്യം ഒഴിവാക്കുന്നതിന് പ്രാഥമിക വായ്പ സഹകരണ സംഘങ്ങൾ ജില്ലാ സഹകരണ ബാങ്കുകളിൽ നിന്നും എടുത്തിട്ടുള്ള വായ്പകളിൽ കാർഷിക കടാശ്വാസ നിയമപ്രകാരം ആനുകൂല്യം അംഗങ്ങൾക്ക് അംഗങ്ങൾക്ക് അനുവദിച്ചതു കാരണം അടയ്ക്കാൻ കഴിയാതിരുന്നത്രയും പലിശയും വായ്പതുകയും ജില്ലാ സഹകരണ ബാങ്കുകളുടെ വാർഷിക അക്കൗണ്ടിൽ കുടിശ്ശികയായി പരിഗണിക്കേണ്ടതില്ലെന്നും നിർദ്ദേശിക്കുന്നു.

ഇപ്രകാരം സർക്കാരിൽ നിന്നും കിട്ടേണ്ട തുക റിപ്പോർട്ടിൽ ചേർക്കുന്നതും കരുതൽ വയ്ക്കുന്നതിനും നീക്കം ചെയ്യുന്നതിനും അത്യന്തം കൃത്യതയോടെ ചെയ്യുന്നു എന്ന് ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥന്മാർ ഉറപ്പാക്കേണ്ടതും ഇതിനാവശ്യമായ സ്റ്റേറ്റ്മെന്റുകൾ സംഘം നിയമാനുസൃതം ആഡിറ്റർക്ക് സമർപ്പിക്കേണ്ടതുമാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ

NATIONAL BANK FOR AGRICULTURE AND RURAL DEVELOPMENT
(institutional development Department)

NABARD **Two Decades of committed service to Rural Prosperity**

No. NB L IDD. COOP. (ST) Pol./282/V-20/2004-05 01 July 2004

Circular No. 175/IDD 26/2004-05

The Managing Director / General Manager SCBs/ DCCBs.

Dear Sir,

Charging or depreciation on computers -
Method and Rate there of

As you are aware Cooperative Banks have considerably increased their investiment in computers during the last few years, on account of adoption of modern

technology in variuos areas of banking operations to meet customer needs and to improve the information flow. In this context it is observed that there is no uniform practice among cooperative Banks in the method adopted for charging depreciation in respect of computers as well as rate of depreciation, applied. In view of the rapid devil payments in technology, it is likely that the installed computers and related hard-ware may become outdated/obstacle within a short period, needing replacement/ upgradation.

2. Taking into account the facts mentioned above, it has been deciede that all State Cooperative Banks and DCCBs should, hence forth, charge depreciation on computers own as straight - line method at the rate of 33.33 percent per onium. This would enable the banks to replace the outdated/absolute computers and related hard-ware within a period of three years.

3. Please acknowledge receipt of this circular to our Regional Office concerned.

Yours faithfully

K. Premaraj

General Manager

INQUIRY,INSPECTION,SUSPENSION, INVESTIGATION AND SURCHARGE

837-885

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ACT

[*CHAPTER VIII

PART B
INQUIRY, SUSPENSION, INVESTIGATION AND SURCHARGE

S65. Inquiry by Registrar :- (1) The Registrar may,

(a) on his own motion; or

(b) on an inquiry report of the Vigilance Officer appointed under Section 68A; or

(c) on a report of the Director of Co-operative Audit appointed under Section 63; or

(d) on an application by the majority of the members of the committee of the society, or by not less than one third of the quorum for the general body meeting, whichever is less; or

(e) on an application by the apex society or financing bank of which such society is a member; or

(f) on an application of a society to which the society concerned is affiliated;-

hold an enquiry by himself or by a person authorised by order in writing, into the Constitution, working and financial condition of the society, if he is satisfied that it is necessary so to do.

(2) The Registrar or the person authorised by him under sub-section (1) shall, for the purpose of an inquiry under this section have the following powers, namely:-

(a) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession of or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or at any branch thereof or where there is no working office for the society, at the office of the Registrar or at the office of any of his subordinate officers;

(b) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath; and

* Inserted by Act 1 of 2000. The amendmend shall come into force only when notifified. Until then old provisions shall survive. They are reproduced under each amended section respectively.

(c) (i) he may, notwithstanding any rule or bye law specifying the period of notice for a general body meeting of the society himself call a general body meeting or require the president or secretary of the society to call a general body meeting at such time and place at the headquarters of the society or any branch thereof, to determine such matters as may be directed by him;

(ii) any meeting called under sub-clause (i) shall have all the powers of a general body meeting called under the bye-laws of the society.

(3) When an inquiry is made under this section, the Registrar may communicate the result of the inquiry to the financing bank, if any, to the society to which such society is affiliated and the circle co-operative union.

(4) When an inquiry made under this section reveals only minor defects which in the opinion of the Registrar, can be remedied by the society, he shall communicate the result of the inquiry to the society and the society, if any, to which that society is affiliated. He shall also direct the society or its officers to take such action within the time specified therein to rectify the defects disclosed in such inquiry.

(5) The enquiry under this section shall be completed within a period of six months.

(6) If the Registrar, on completion of the enquiry finds that, there is major defect in the constitution or working or financial condition of the society, he may initiate action in accordance with the provisions of Section 32.

S66. Supervision and Inspection :- (1) The Registrar shall supervise or cause to be supervised by a person authorised by him by general or special order in writing in this behalf, the working of every society as frequently as he may consider necessary. The supervision under this sub-section may include an inspection of the books of the society.

(2) The Registrar may, on his own motion, or on the application of a creditor of a society, inspect or direct any person authorised by him by order in writing in this behalf to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant-

(a) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time and

(b) deposits with the Registrar such a sum as security for the costs of the proposed inspection as the Registrar may require.

(3) Where the inspection under sub-section (2) is made on the application of the creditor, the Registrar shall communicate the result of such inspection to such creditor.

(4) The Registrar or any person authorised by the Registrar under sub-section (1) or sub-section (2) shall at all reasonable time have free access to the books, records and accounts of the society and may summon any person in possession of or responsible for the custody of any such books, records and accounts, to produce the same for inspection at any place at the headquarters of the society or any branch thereof or where there is no working office for the society at the office of Registrar or at the office of any of his subordinate officers. It shall be the duty of every officer and employee of the society to assist in such supervision or inspection and to furnish any information that may be required for the purpose.

(5) The Registrar or the person authorised by him under sub-section (1) or sub-Section (2) may, by order in writing, direct the society or its officers to take such action as may be specified in such order within the time that may be mentioned in such order.

(6) The circle Co-operative union shall have the power to direct that a non-official member thereof shall be present at an inspection under sub-section (2):

Provided that such non-official member shall not have the power to make the inspection himself.

(7) Apex Society or Federal Co-operative Society or a financing bank shall have the right to inspect the books of any registered society which is affiliated to it, through its officers.

(8) An officer of an Apex Society or Federal Co-operative Society or a financing bank, inspecting the books of a society shall at all reasonable times have the access to the books, accounts, documents, securities, cash and other properties belonging to the society and may call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it.

(9) An officer referred to in sub-section (8) shall also have power to summon any person in possession of or responsible for the custody of any books, accounts, documents, securities, cash and other properties referred to in that sub-section to produce the same for inspection or verification at any place at the headquarters of the society or any branch thereof.

(10) Apex Society or Federal Co-operative Society or the financing bank may also report to the Registrar about the action to be taken against the society as a result of the inspection by its officers.

S67. Cost of inquiry or inspection:- Where an inquiry is held under Section 65 or an inspection is held under Section 66 on the application of a creditor, the Registrar may, by order, apportion the cost, or such portion of the cost, as he may deem fit, between the society to which the society concerned is affiliated, the society, the member or creditor demanding an enquiry or inspection,

and the officers or former officers of the society:

Provided that:-

(a) no order of apportionment of the cost shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a reasonable opportunity of being heard.

(b) The Registrar shall state in writing the grounds on which the costs are apportioned]

SURVIVING SECTIONS

S65. Inquiry by Registrar :- (1) The Registrar may, of his own motion; or on the application of a society to which the society concerned is affiliated, by himself or by a person authorised by him by order in writing hold an inquiry into the constitution, working and financial condition of the society.

(2) An inquiry of the nature referred to in sub-section (1) shall be held on the application of :-

(a) a majority of the members of the committee of the society, or

(b) not less than one third of the total number of members of the society or the number of members required for the quorum of the general body whichever is less.

(3) The Registrar or the person authorised by him under sub-section (1) shall, for the purpose of an inquiry under this section have the following powers, namely:-

(a) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession of, or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or at any branch thereof ;

(b) he may summon any person who, he had reason to believe, has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath; and

(c) (i) he may, notwithstanding any rule or bye law specifying the period of notice for a general body meeting of the society himself call a general body meeting or require the president or secretary of the society to call a general body meeting at such time and place at the headquarters of the society or any branch thereof, to determine such matters as may be directed by him;

(ii) any meeting called under sub-clause (i) shall have all the powers of a general body meeting called under the bye-laws of the society.

(4) When an inquiry is made under this section, the Registrar may communicate the result of the inquiry to the financing bank, if any, to the society to which such society is affiliated and the circle co-operative union.

(5) When an inquiry made under this section reveals only minor defects which in the opinion of the Registrar, can be remedied by the society, he may communicate the result of the inquiry to the society and the society, if any, to which that society is affiliated. He may also direct the society or its officers to take such action within the time specified therein to rectify the defects disclosed in such inquiry.

S66. Supervision and Inspection :- (1) (a) The Registrar shall supervise or cause to be supervised by a person authorised by him by general or special order in writing in this behalf, the working of every society as frequently as he may consider necessary.

(b) The supervision under clause (a) may include an inspection of the books of the society.

(2) The Registrar may, of his own motion, or on the application of a creditor of a society, inspect or direct any person authorised by him by order in writing in this behalf to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant-

(a) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) Where the inspection under sub-section (2) is made on the application of the creditor, the Registrar shall communicate the result of such inspection to such creditor.

(4) The Registrar or any person authorised by the Registrar under sub-section (1) or sub-section (2) shall at all reasonable times have free access to the books, records and accounts of the society and may summon any person in possession of or responsible for the custody of any such books, records and accounts, to produce the same for inspection at any place at the headquarters of the society or any branch thereof. It shall be the duty of every officer and employee of the society to assist in such supervision or inspection and to furnish any information that may be required for the purpose.

(5) The Registrar or the person authorised by him under sub-section (1) or sub-Section (2) may, by order in writing, direct the society or its officers to take such action as may be specified in such order within the time that may be mentioned in such order.

(6) The circle Co-operative union shall have the power to direct that a non-official member thereof shall be present at an inspection under sub-section (2):

Provided that such non-official member shall not have the power to make the inspection himself.

(7) A financing bank shall have the right to inspect the books of any registered society which is affiliated to it, through its officers.

(8) An officer of a financing bank inspecting the books of a society shall at all reasonable time have free access to the books, accounts, documents, securities, cash and other properties belonging to the society and may call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

(9) An officer referred to in sub-section (8) shall also have power to summon any person in possession of or responsible for the custody of any books, accounts, documents, securities, cash and other properties referred to in that sub-section to produce the same for inspection or verification at any place at the headquarters of the society or any branch thereof.

(10) The financing bank may also report to the Registrar about the action to be taken against the society as a result of the inspection by its officers.

S67. Cost of inquiry or inspection:- Where an inquiry is held under Section 65, or an inspection is made under Section 66 on the application of a creditor, the Registrar may, by order, apportion the cost, or such portion of the cost, as he may deem fit, between the society to which the society concerned is affiliated, the society, the members or creditor demanding an enquiry or inspection, and the officers or former officers, of the society:

Provided that:-

(a) no order of apportionment of the cost shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a

reasonable opportunity of being heard.

(b) The Registrar shall state in writing the grounds on which the costs are apportioned.

RULES

R66. Procedure for the conduct of inquiry and inspection :- (1) (i) An order, authorising inquiry under Section 65 or inspection under Section 66 shall among other things, contain the following:

(a) the name of the society whose affairs are to be inquired into or whose books of accounts are to be inspected:

(b) the name of the person authorised to conduct the inquiry or inspection;

(c) in specific point or points on which the inquiry or inspection is to be made, the period within which the inquiry or inspection is to be completed and report submitted to the Registrar;

(d) costs of inquiry or inspection;

(c) any other matter relating or pertaining to the inquiry or inspection.

(2) A copy of every order authorising inquiry under section 65 or inspection under section 66 shall be issued to the President or the Secretary of the Society concerned by registered post with acknowledgment due. A copy of the order shall also be made available to the Central Society or societies, to which the society in respect of which the order is issued, is affiliated;

(3) If the inquiry or inspection cannot be completed within the time specified in the order referred to in sub-rule (1) (c), the person conducting the inquiry or inspection shall submit an interim report stating the reasons for failure to complete the inquiry or inspection, and the Registrar, if he is satisfied, may grant such extension of time as he may deem necessary or he may withdraw the inquiry or inspection from the officer to whom it is entrusted and hold the inquiry or inspection himself or entrust to such other person as he deems fit.

(4) On receipt of the orders referred to in sub-rule (1) the person authorised to conduct the inquiry or inspection shall proceed to examine the relevant books of accounts and other documents in the possession of the society or any of its officers, members, agents or servants and obtain such information or explanation from any such officer, members, agents or servants of the society in regard to the transaction and working of the society as be deems necessary for the conduct of such inquiry or inspection.

(5) The person authorised to conduct the inquiry or inspection shall submit his report to the Registrar on all points mentioned in the order referred to in clause (c) to sub-rule (1). The report shall invariably contain a latest balance sheet of the society and the last known addresses of the members of the Committee and of the Secretary. The report shall also contain his findings and the reason

therefore; supported by such documentary or other evidence as recorded by him during the course of the inquiry or inspection. He shall also specify in his report the costs of the inquiry or inspection together with reasons and recommend to the Registrar the manner in which the entire cost or a party thereof may be apportioned amongst the parties specified in Section 67. The Registrar shall pass such orders thereon as may be considered just after giving a reasonable opportunity of being heard to the society; person or persons concerned.

[*(6) The Registrar, if he is satisfied that action under section 66B of the Act is warranted, shall issue a direction to the committee of a society to suspend the officer or officers responsible for the offence. The reason for the proposed suspension shall be specified in the direction. The direction shall be sent by registered post with the acknowledgment due.]

(7) (i) The order in writing for an inquiry under sub-section (1) of section 68 of the Act shall among other things contain the following:-

(a) name of the society whose affairs are to be inquired into or whose books of accounts are to be inspected;

(b) name of the person authorised to conduct the inquiry;

(c) the specific point or points on which the inquiry is to be made;

(d) the period within which the inquiry is to be completed and report submitted to the Registrar;

(e) costs of inquiry or inspection

(f) any other matter relating or pertaining to the inquiry.

(ii) On getting the inquiry report, the Registrar shall give the person or persons concerned an opportunity of being heard before issuing an order for surcharge. The order for surcharge shall be in writing and shall be sent under registered post with acknowledgment due. The order shall among other things contain the following:

(a) name of society;

(b) name/names of person/persons responsible or repay or restore the money or any property or any part thereof, by mentioning clearly the total amount involved due from each;

(c) the rate of interest if any, to be clearly specified;

(d) the amount of cost or compensation to be specified;

(e) the period within which the amount is to be realised;

(f) in case the person responsible is not remitting the amount within [*the time-limit so fixed, the society shall report the matter to the Registrar forthwith and the Registrar shall realise the amount as per the Revenue Recovery Act.]

* Inserted and substituted by SRO 380/2000

CASE LAWS

The case laws under this head are classified as shown below.

1. Inquiry
2. Supervision and Inspection

INQUIRY

Staying departmental enquiry till conclusion of criminal case Constitution of India - Article 311 – Stay of departmental enquiry till conclusion of criminal case pending against delinquent officer – It is not desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent – There can be no straight jacket formula as to in which case the departmental proceedings are to be stayed.

In **Capt. M. Paul Anthony**'s case this Court indicated some of the fact situations which would govern the question whether departmental proceedings should be kept in abeyance during pendency of a criminal case. In paragraph 22 conclusions which are deducible from various decisions were summarised. They are as follows.

(i)Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately. (ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. (iii) whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet. (iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed. (v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest. *In this judgment* **2003 (108) DLT 140** *is reversed,* **1999 (2) KLT SN 18 P 17** *is relied on and* **1997 (2) SCC 699** *and* **1996 (6) SCC 417** *are referred to.* **2004 (3) KLT SN 153 = 2004 (7) SCC 27 = AIR 2004 SC 4144 DB State Bank of India v/s R.B. Sharma**

If the Assistant Registrar is examining the matter for submitting a report, the Bank need not make any enquiries of their own Co-operative Societies Act, 1969 (Kerala) – Co-operative Society – Enquiry – Jurisdiction of Joint Registrar of Co-operative Societies – Order passed by Joint Registrar advising the Society that the Assistant Registrar is examining the matter for submitting a report, the Bank need not make any enquiries of their own – Held, order issued is without jurisdiction – No justification to tell the society that they cannot enquire into a matter affecting their credibility.

There were several proceedings between the parties and there is likelihood of the opportunity being utilized to wreck vengeance on the second respondent, But, even such circumstances cannot have relevance or justification to tell the society that they cannot enquire into a matter affecting their credibility, by their own machinery.

2003 (3) KLT SN 89 Thekkumbhagom Service Co-operative Bank v/s Joint Registrar of Co-operative Societies

Removal from Service of secretary Article 226 - Removal from Service of secretary of a co-operative society by the Registrar under Section 39(2) of the U.P. Co-operative Societies Act is statutory in nature and amendable to writ jurisdiction.

1999(3) KLT SN 95 SC FB Konch S. and V. Samithi Ltd v/s Sarnam Singh

There can be simultaneous enquiries by the Department and by the Vigilance Article 226 - There can be simultaneous enquiries by the Department and investigation by the vigilance by the department. It is not inviolable rule that in every case enquiry by the department must be stayed merely because the Criminal Case is pending.

1999 (2) KLJ 893 = 1999 (3) KLT 651 Jose Mathew v/s State Industrial Enterprises Ltd and others

Proceedings in a Criminal Case and the departmental proceedings can proceed simultaneously Articles 226 and 14 - Proceedings in a Criminal Case and the departmental proceedings can proceed simultaneously with a little exception. The little exception may be where the departmental proceedings and the Criminal Case are based on the same set of facts and the evidence in both the proceedings is common without there being a variance. It is desirable to stay departmental proceedings.

1999 (2) KLT SN 17 C 18 SC DB Paul Antony v/s Bharat Gold Mines Ltd

Acquittal of the delinquent officer by the Criminal Court does not conclude departmental proceedings Article 311 - Department proceedings and Criminal proceeding on the same charge. Acquittal of the delinquent officer by the Criminal Court does not conclude departmental proceedings in respect of the same charge.

1999 (2) KLJ NOC 10 DB Senior Superintendant of Post Offices v/s Gopalan

Furnishing copy of enquiry report to the delinquent is necessary only after 20-11-1990 Furnishing copy of enquiry report to the delinquent is necessary only after 20th November 1990, the date of decision of Mohammed Ramzan Khan's Case. Non furnishing copy of the enquiry report to the delinquent before the said date cannot be held that the enquiry is defective. *In this judgment* **AIR 1991 SC 471 Union of India v/s Mohammed Ramzan Khan** *and* **AIR 1994 SC 1074 Managing Director, ECIL v/s B. Karunakar** *are relied on and* **1985 Lab IC 729 Rasiklal Varghajibhai Patel v/s Ahmedabad Municipal Corporation and another** *and* **1984 (2) LLJ 186 AI Kalra v/s Project and Equipment Corporation** *are referred to.*

ILR 1999 (1) Ker 396 DB Dena Bank and another v/s Smt. Shakunthala Madhavan and another

When enquiry officer has submitted his report, it cannot be wiped out and denovo enquiry cannot be ordered Article 226 - When an enquiry Officer had been fully constituted and when that enquiry Officer has submitted his report, it cannot be wiped out and denovo enquiry cannot be ordered. The disciplinary authority can disagree with the finding of the enquiry officer and continue the enquiry.

1999 (1) KLJ NOC 29 M.D. Baby v/s State of Kerala

For exercising power under Section 32 it is not necessary to exercise powers under Sections 63, 64, 65, and 66 Sections 32, 65 & 66 - Condition precedent for exercising power under Section 32 - Not necessary that the Registrar or Assistant Registrar should exercise powers under Sections 63, 64, 65, & 66 - Assistant Registrar can report of the irregularities to the Registrar to take action individually under Section 32.

Under Section. 66 (5) of the Act, the Registrar can direct the Society or its officers to take such action as may be specified in such order within the time that may be mentioned in such order. But, on inspection, if it is found that the committee has committed such irregularities or that there has been neglect of the orders issued by the Registrar or that huge losses have been occurred due to the negligence of the committee, it cannot be said that the Assistant Registrar, should under Section 65 of the Act, direct the Society to cure the defects. If the circumstances are so serious the Assistant Registrar can report the matter to the Registrar to take suitable action individually under Section 32 of the Act. *In this case* **1997 (1) KLT 957 Sudarasanan v/s State of Kerala** *is reversed and* **AIR 1970 SC 992 Joint Registrar of Co-operative Societies, Madras & others v/s S. Rajagopal Naidu** *are relied on.*

1997 (2) KLT 522 = ILR 1998 (1) Ker 146 State of Kerala v/s Sudarsanan

There is no provision in Section 65 to initiate enquiry without the Joint Registrar applying his mind Section 65 - There is no provision in Section 65 to

initiate enquiry on the recommendation of Assistant Registrar without the Joint Registrar applying his mind or being satisfied of the recommendation.

The Assistant Registrar did not conduct the enquiry by himself but the further delegated the Unit Inspector to conduct the enquiry and thereafter Assistant Registrar recommended action under Section 65 and without going through the details merely and without satisfying himself on the recommendation of the Assistant Registrar. Section 65 enquiry was started. There is no provision in S. 65 of the Act to initiate enquiry on the recommendation of Assistant Registrar.

1997 (2) KLT 85 = 1997 (2) KLJ 43 Ellakkal Service Co-operative Bank v/s State of Kerala

Recommendation in report under S. 66 to supersede the committee is beyond the scope of the provision Sections 65 and 66 - Supervision and Inspection is a power conferred on the Registrar to take action independently based on such inspection and supervision - Recommendation by Assistant Registrar in his report under S. 66 to supersede the committee is beyond the scope of the provision -Order of supersession made in pursuance to such recommendation cannot be sustained.

Section 65 contemplates inquiry by Registrar for which purpose the Registrar has got extensive power to peruse the books, accounts, documents, securities etc. summon persons and examined them on oath. Sub-section (4) of the Section says that when an enquiry is made under the Section, the Registrar may communicate the result of the inquiry to the financing bank and Sub-section (5) enables the Registrar to direct the society to take such action within the time specified. These provisions, viz. Sections 65 and 66 enquiries and inspection do not empower the Assistant Registrar to recommend the supersession under S. 32 of the Act. That would be plainly beyond the scope of these provisions. If an order is made in pursuance to such recommendation, it is contrary to the provision and such an order cannot be sustained.

1997 (1) KLT 957 = 1997 (1) KLJ 475 Sudarsanan v/s State

Refusal of Request to furnish copy of report is clearly violation of the principles of natural justice Sections 32 and 66 - Action under Section 32 based on the report made under Section 66 - Request of the committee to furnish copy of report refused - This clearly violates the principles of natural justice.

On enquiry under Section 65 of the Act a recommendation to supersede the committee was made by the Assistant Registrar. The request of the committee for the copies of the inquiry report was not granted, whereas it is seen that the report is the basis of the impugned order. This clearly vitiates the principles of natural justice. Mere furnishing of information casually is not proper notice.

1997 (1) KLT 957 = 1997 (1) KLJ 475 Sudarsanan v/s State

A separate order to be passed after giving opportunity to the society Sections 65, 66 and Rule 66 - After conducting enquiry or inspection, the provisions contemplate a separate order to be passed after giving opportunity to the society.

Rule 66 of the Rules set out the procedure for the conduct of inquiry and inspection. An inquiry can be ordered on specific points. Sub-rule (5) of the Rule empowers the officer authorised to conduct an inquiry to submit a report containing his findings. The Registrar on the basis of the report shall pass such order as may be considered just and necessary after giving a reasonable opportunity of being heard to the society.

1997 (1) KLT 957 = 1997 (1) KLJ 475 Sudarsanan v/s State

Selection and appointment of the staff Co-operative Societies Act, 1969 (Kerala) - Sections 65 and 66 - Registrar is endowed with the general power of supervision of the working of a Society which includes selection and appointment of the staff- power should not be used in an arbitrary or capricious manner. *In this judgment* **1992 (1) KLT 381 Trivandrum District Co-operative Bank Ltd v/s State of Kerala** *and* **1988 (1) KLT 827 Kottayam Co-operative Bank Ltd v/s State of Kerala** *are referred to and* **AIR 1950 SC 27 Gopalan v/s State of Madras, AIR 1980 SC 134 Income Tax Commissioner v/s Ahmedabai Umarbhai and Co, 26 All 393 Balraj Kunwar v/s Jagatpal Singh** *and* **AIR 1992 SC 573 C.E.S.C. Ltd v/s Subhash Chandra Bose** *are relied on.*

ILR 1995 (2) Ker 156 = 1995 (1) KLT 363 FB Aji and others v/s State of Kerala and others

The Registrar has no jurisdiction to order an enquiry on instruction issued by the Minister Section 65 - The Registrar has no jurisdiction to order an enquiry under section 65 based on instruction issued by the Minister. A statutory authority vested with the discretion shall exercise the same uninfluenced by any extraneous consideration or direction from any higher authority. The Joint Registrar does not appear to have exercised his statutory power independently uninfluenced by extraneous considerations.

1994 (3) ILR SN 8 P 7 = 1994 (2) KLT 564 = 1994 (2) KLJ 582 Panickar Kadavu Consumer co-operative Society Ltd v/s The Registrar of Co-operative Societies and others

Report of an Officer authorised under section 66 Co-operative Societies Act, 1969 (Kerala) - Section 68 - Enquiry can be initiated only on the report of an Officer authorised under section 66 to conduct enquiry.

ILR 1991 (3) Ker 329 = 1991 (1) KLT 845 M.A. Razak v/s The Joint Registrar of Co-operative Societies and others

Specific points on which inquiry is to be made Inquiry into the working of a society - Order of Registrar should indicate the specific points on which inquiry is to be made.

1976 KLT 353 Cheranelloor Co-operative Society Ltd v/s Deputy Registrar

Conducting a fresh inquiry If the report of inquiry is not satisfactory, Registrar is competent to conduct a fresh inquiry. A member of the society is not an aggrieved person to challenge that inquiry.
1976 KLT SN 65

SUPERVISION AND INSPECTION

Supervision and Rescinding of resolutions Cooperative Societies Rules, 1969 (Kerala) - Rule 66 – Power under Rule 176 to rescind any resolution of the society which is passed in violation of the provisions of the Act, Rules, or bye laws or which is against the best interest of the Society – From the sweep of the power, the resolutions concerning the service matters of the employees are not excluded.

From the sweep of the power, the resolutions concerning the service matters of the employees are not excluded. Of course, the Registrar may not have the power in arbitration case under Section 69 to order reinstatement as such, as held by this Court in the decisions cited by the learned Counsel for the petitioner which are mentioned herein above. Still, he can bring about the same effect by rescinding the resolutions, invoking his power under Rule 176. *In this judgment* **1988 (2) KLT SN 25** *and* **1989 (2) KLJ 170** *are referred to.*
2004 (1) KLT SN 50 Poonjar Service Cooperative Bank Ltd v/s State of Kerala

Supersession and Supervision Section 32 66--Supersession of Board and appointment of administrator--Basic principle underlying Section 32 is that management of Society should be by representative body and the exception is only their substitution by administrator.

The second respondent showed undue haste in getting the interim report without waiting for a final report on an enquiry which is still said to be going on and passed the impugned order without giving a fair opportunity to the petitioners. I feel Ext. P 13 action does not appear to be taken to save the society, but has been taken to oust the committee from power. It is to be noticed that the second respondent's duty pursuant to the enquiry under Section 66 is to protect the interests of the society and not to act as a disciplinary authority over the Board of Directors of the society. Legally there is no bar for the second respondent to take action if materials brought on record under Section 66 enquiry are adequate to take action under Section 32 It is evident that in the beginning the second respondent has not taken into account the allegations as grave enough to order enquiry under Section 65 as is evident from Ext. P 8 initiation of enquiry proceedings under Section 66 of the Act. The enquiry under Section 66 is still in progress and the interim report which is essentially a copy of the audit report is neither complete nor comprehensive to initiate action under Section 32 and from

the action of the second respondent it is clear that the purpose of the enquiry was only to remove the Board. *In this judgment* **1998 (1) KLJ 735** *is referred to and* **1990 (1) KLT 513, 1995 (2) KLT 184** ***and*** **1997 (1) KLJ 607** *are relied on.*

2002 (2) KLT SN 134 Board of Directors v/s The Kallurkkad Farmers Co-operative Bank Ltd

When a co-operative society acts in violation of orders passed by Registrar of Co-operative Societies and Government Article 226 - under the Act, the High Court under Article 226 is competent to see whether the society has to follow those circulars and orders.

A Writ Petition would not lie against each and every action taken by the Co-operative Society. A Co-operative Society is not a State within the meaning of Article 12 of the Constitution of India. But a Co-operative Society cannot act mala fide by violating the Circular and directions issued by Joint Registrar and Government on the plea that the decision is by a corporate body. We are of the view Ext. P 9 notices dated 10.11.1999 issued by the President of the Co-operative Bank is contrary to the order passed by the Joint Registrar dated 14.1.1999 and the order of the Government dated 15.6.1999 as well as against the counter affidavit filed by the bank before this Court. When the society acts in violation of the orders passed by the Registrar of Co-operative Societies under Co-operative Societies Act as well as the orders issued by the Government under the Co-operative Societies Act this Court under Article 226 of the Constitution of India could see whether the Co-operative Societies follow those circulars and orders. In such a situation they cannot take shelter under the Full Bench decision of this Court in Bhaskaran's case (supra.). Full Bench decision in Bhaskaran's case would apply only when there is direct challenge against various decisions taken by the Co-operative Society. What is challenged in this case is that by issuing the present notice society was violating the earlier orders issued by the Joint Registrar, Government as well as contrary to the affidavit filed by them before this Court. It may be pointed out that mandamus cannot be denied on the ground that the duty to be enforced is not imposed by the statute. The judicial control over the fast expanding maze of bodies affecting the rights of the people should not be put into watertight compartment. It should remain flexible to meet the requirements of variable circumstances. Mandamus is a very wide remedy which must be easily available to reach injustice wherever it is found. Technicalities should not come in the way of granting that relief under Article 226 *In this judgment* **1987 (2) KLT 903** *is distinguished and* **AIR 1989 SC 1607, AIR 1997 (3) SCC 571** *and* **AIR 1999 (1) SCC 761** *are relied on.*

2002 (1) KLT 857 DB Pothanicad Farmers Co-operative Bank Ltd v/s Joint Registrar

Suspension of an employee Administrator cannot order suspension of an employee at the behest of the Registrar or the Government - Administrator has to apply his mind independently.

2000 (2) KLT SN P 79 Ramakrishnan v/s Joint Secretary

Dismissal of Secretary Constitution of India - Article 226 – Dismissal of Secretary of Co-operative Society on the advice of the Registrar of Co-operative Societies under S.38 of U.P. Co-operative Societies Act – Such an order is statutory in nature and amenable to writ jurisdiction under Art.226.

The scheme of the enactment clearly shows that the order of removal from service of Secretary of a Co-operative Society made under Sub-s(1) of S.38 by the Society or that under Sub-s.(2) of S.38 by the Registrar is, therefore, statutory in nature. For his reason alone, it must be held that such an order is amenable to the writ jurisdiction of the High Court under Art.226 of the Constitution. The view taken by the High Court that the Writ Petition was maintainable in the present case does not, therefore, call for any interference.

1999 (3) KLT SN100 P 95 SC FB Konch S. & V. Samithi Ltd v/s Sarnam Singh

Society can act only subject to the limitation of the Act, Rules by laws and directions issued by the Registrar Section 66 (1) - Even if the Co-operative Society functions as an autonomous body, Society can act only subject to the limitation of the Act, Rules by laws and directions issued by the Registrar. Registrar has the power to issue circulars to safeguard the interest of the societies as well as the public at large including the circular entrusting the appointment to the various posts in the co-operative Society to the Institute of Management. *In this judgment* **1998 (1) KLT 275 Gouthaman v/s Joint Registrar, AIR 1970 P & H 528 Sadhu Singh v/s State of Punjab** *and* **AIR 1971 Bom 365 Naghur District Central Co-operative Bank Ltd v/s Divisional Joint Registrar of Co-operative Societies** *are referred to.*

1999 (2) KLT 180 = 1999 (1) KLJ 895 Sabu Kurian and others v/s Joint Registrar of Co-operative Societies

Discretion Article 226 - Discretion means when it is said that something is to be done within the discretion of the authorities that something is to be done according to the rules of reason and justice, not according to private opinion; according to law and not humour. It is to be not arbitrary, vague and fanciful, but legal and regular. And it must be exercised within the limit, to which an honest man competent to the discharge of his office ought to confine himself. *In this judgment* **1981 AC 173 Sharp v/s Wake Field** *is followed.*

1999 (1) KLT 500 Regi Kuriakose v/s Superintendant of Police

The Bank is entitled to a copy of the report Rule 24 - Based on enquiry under Section 66 direction to Society to cancel appointments made in

the Bank - On application, the Bank is entitled to a copy of the report.

Rule 24 provides for a procedure for applying for copies and furnishing of such copies in case the applicant is able to satisfy the Registrar that be requires such documents to seek redress in any matter in which he is aggrieved or for any other lawful purpose. When Rule 24 makes a person entitled for a copy when the Registrar is satisfied that it is essential for him to redress his grievance, the Registrar has no other go but to furnish the report if the applicant remits necessary fees, and produces copying sheets. In the light of Rule 24, the petitioner is entitled to copy of the report. The petitioner is only told that there are adverse findings against the petitioner in the report. But, the report is not disclosed to him. When action is taken on the basis of findings pointing out the understanding of the findings by the Joint Registrar, it is possible for the petitioner to challenge that understanding and to canvass that the findings are in his favour before any action is finalized to terms. When an action is taken and the Board of Directors is directed to cancel the appointments made by them, they should have been given an opportunity to substantiate that there is no such finding in such report warranting such cancellation, unlike in the proceedings under Section 32 as deal with in the two decisions cited by the Government Pleader. *In this judgment* **1997 (2) KLT 522 State of Kerala v/s Sudarsanan** *and* **1993 (2) KLJ 197 M.M. Abdul Rahiman & others v/s Joint Registrar and others** *are distinguished.*

1998 (1) KLT 802 = 1998 KLJ 735 = 1998 (1) Lab IC 2424 Mukkam Service Co-operative Bank v/s Joint Registrar

Registrar has no power to interfere with the day to day working of the Societies Co-operative Societies Act, 1969 (Kerala) - Section 66 (1) (a) - When posts of Secretary and Attender have fallen vacant, the Society has power to fill up the vacancies. *In this judgment* **1995 (1) KLT 363 Aji v/s State of Kerala, 1988 (1) KLT 827 Kottayam Co-operative Bank Ltd v/s State of Kerala, 1990 (1) KLT 618 Kurian v/s Joint Registrar, 1992 (1) KLT 381 Trivandrum District Co-operative Bank Ltd v/s State of Kerala** *and* **1984 KLT 971 Sherthallai Urban Co-operative Bank Ltd v/s State of Kerala** *are referred to.*

ILR 1998 (2) Ker 40 = 1998 (1) KLJ 122 = 1998 (1) KLT 275 DB Gouthaman v/s Joint Registrar of Co-operative Societies and others

Society can enjoy autonomy and can claim freedom Section 66 (1) (a) - So long as the Society act within its jurisdiction in conformity with the provisions of the Act, Rules, bye laws and the general directions by the Registrar, it can enjoy an autonomy and can claim freedom from interference.

If the society violates the provisions of the Act, Rules, bye-laws or the direction of the Registrar the society will be subject to the supervisory control of the authorities under the Act and the Registrar can issue suitable an appropriate

orders by virtue of powers, conferred under section 66 (1) (a) of the Act. The committee cannot act against the interest of the society with immunity and if the actions are prejudicial to the interests of the society, the Registrar has the powers to curb and curtail their freedom. Filling up of vacancies can only be considered as an act in the nature of day-to-day administration/internal administration of the society and there may not be any reason for the respondents to interfere in this process. No illegality or irregularity is alleged by the respondents in excess of his powers, illegal and as such liable to be quashed and accordingly the same is quashed. The society can proceed to fill up the vacancies caused by the retirement of secretary and attender-cum-watchman as per the Rules and Regulations.

1998 (1) KLT 275 = 1998 (1) KLT SN 17 = 1998 (1) KLJ 122 = ILR 1998 (2) Ker 40 = 1998 Lab IC 805 N. Gouthaman v/s Joint Registrar and others

Appointments to retirement vacancies Section 66 (1) (a) - Appointments to retirement vacancies prevented by Registrar directing that the same can be done with permission as and when the financial position improves - Filling up of such vacancies can only be considered as an act in the nature of day-to-day administration/internal administration and interference with this is not correct.

The two posts, namely that the secretary and attender, are already sanctioned posts as per Rule 188 (staff pattern). Admittedly these posts had been there for over 20 years. Now what is sought to be done by the society is to fill up these vacancies which had arisen in view of their retirement. For the purpose of filling up these posts the society has passed a resolution with a majority of 7 to 3 and taken up steps by making necessary advertisement and calling for applications. Certainly it cannot be said that the action taken by the society are in any way violative of the provisions of the Act. Rules, bye-laws or the Registrar's circulars. Equally it cannot be said that the society has acted in the prejudicial manner in the interests of the society. The society is well within its powers to proceed with the process of appointment of secretary and attender which are statutorily sanctioned posts as already referred to. Filling up of such vacancies can only be considered as an act in the nature of day-to-day administration / internal administration of the society and there may not be any reason for the respondents to interfere in this process. No illegal or irregularity is alleged by the respondents in the selection process. In *this case* **1995 (1) KLT 363 FB Aji v/s State of Kerala, 1988 (1) KLT 827 Kottayam Co-operative Bank Ltd v/s State of Kerala, 1990 (1) KLT 618 Kurian v/s Joint Registrar, 1992 (1) KLT 381 Trivandurm Co-operative Bank Ltd v/s State of Kerala** *and* **1984 KLT 971 Sherthallai Urban Co-operative Bank Ltd v/s State of Kerala** *are relied on.*

1998 (1) KLT 275 = 1998 (1) KLT SN 17 = 1998 (1) KLJ 122 = ILR 1998 (2) Ker 40 = 1998 Lab IC 805 N. Gouthaman v/s Joint Registrar and others

Reasoning An Administrative body or a quasi judicial one cannot be expected to give reasoning as is expected from a regular court.

ILR 1998 (1) Ker 146 State of Kerala v/s Sudarsanan

Supersession Enquiry and Supervision Sections 32, 65 and 66 - Condition precedent for exercising power under Section 32 - Not necessary that the Registrar or Assistant Registrar should exercise powers under Sections 63, 64, 65, & 66 - Assistant Registrar can report of the irregularities to the Registrar to take action individually under Section 32.

Under Section. 66 (5) of the Act, the Registrar can direct the Society or its officers to take such action as may be specified in such order within the time that may be mentioned in such order. But, on inspection, if it is found that the committee has committed such irregularities or that there has been neglect of the orders issued by the Registrar or that huge losses have been occurred due to the negligence of the committee, it cannot be said that the Assistant Registrar, should under Section 65 of the Act, direct the Society to cure the defects. If the circumstances are so serious the Assistant Registrar can report the matter to the Registrar to take suitable action individually under Section 32 of the Act. *In this case* **1997 (1) KLT 957 Sudarasanan v/s State of Kerala** *is reversed and* **AIR 1970 SC 992 Joint Registrar of Co-operative Societies, Madras & others v/s S. Rajagopal Naidu** *are relied on.*

1997 (2) KLT 522 = ILR 1998 (1) Ker 146 State of Kerala v/s Sudarsanan

Appointing an applicant who was ranked first in the written test and interview Section 66 - The Joint Registrar is entitled to give direction to the society to appoint an applicant who was ranked first in the written test and interview or to face the consequences.

Here is a case where the third respondent invited applications for appointment to the post of Typist. Petitioner appeared for the written test and the interview and she was ranked first and she was issued the appointment order. Subsequently, because of an order from the Assistant Registrar staying the selection, appointment was not given effect to. But later the Assistant Registrar withdrew the stay. But in spite of that the society refused to appoint the petitioner. In such circumstances, the Registrar is not helpless in compelling the society to act according to law. The Joint Registrar was perfectly correct in directing the society to appoint the petitioner, failing which the Society was to face the consequences, as envisaged under the Act. *In this case* **1992 (1) KLT 381 Trivandrum District Co-operative Bank Ltd v/s State of Kerala** *is relied on.*

1997 (2) KLT 159 = 1997 (2) KLJ 18 = ILR 1997 (3) Ker 872 Sulochana v/s Asamannur Service Co-operative Bank Ltd

Provisions of Rule 66 is mandatory Sub-rule (1) of Rule 66 says that an order authorising inquiry under Section 65 shall among other things contain the

following. The word used is "shall". This is a mandatory provision. For any reason if Joint Registrar was unable to inform the name, question of substantial compliance could have been considered. But in no such circumstances, Joint Registrar can say that such rule is not necessary as no purpose will be served by mentioning the name so long as the rule stands and he should have complied with Rule 66 (1) (d) was not complied with. But with regard to the contention that the notice was not served by registered post acknowledgment due as provided under Rule 66 (2). There is noncompliance of above rule which is mandatory. Notice was sent by ordinary post. Section 104 of the Act also provide that such notice shall be served by Registered Post.

1997 (2) KLT 85 = 1997 (2) KLJ 43 Ellakkal Service Co-operative Bank v/s State

When an enquiry officer is transferred Procedure to be adopted by appointing another enquiry officer and there will be procedural violation if the first enquiry was not withdrawn and strict compliance of Rule 66 (3).

1997 (2) KLT 85 = 1997 (2) KLJ 43 Ellakkal Service Co-operative Bank v/s State

The report should contain latest balance sheet The rule specifically states that the report shall invariably contain a latest balance sheet of the society. The word "invariably contain" show that it is absolutely necessary and should contain balance sheet. Hence there is a violation of Rule 66 (5) of the Rules.

1997 (2) KLT 85 = 1997 (2) KLJ 43 Ellakkal Service Co-operative Bank v/s State.

Principles of natural justice When principles of natural justice are enshrined in a statutory provision, the statutory authorities are bound to obey the rule strictly. When a statute have conferred on anybody the power to make any decision affecting individuals, court will ensure that the procedure safeguards as mentioned in the rule are followed. Where the statute under which an authority functions provides for the observance of the principles of natural justice in a particular manner natural justice will have to be observed in that manner.

1997 (2) KLT 85 = 1997 (2) KLJ 43 Ellakkal Service Co-operative Bank v/s State

Officer conducting enquiry transferred Rule 66 (3) - Procedure to be adopted before appointing another Officer - The second enquiry officer was asked to continue the proceedings. There is no specific provision to ask the second enquiry officer to continue the proceedings. The procedure stated under Rule 66 (3) is to withdraw the proceedings and conduct the inquiry by the Registrar himself or entrust with another officer. In the order appointing second enquiry officer, it is not stated that the enquiry is withdrawn. In the interim report, with regard to some of the points there are findings in favour of the petitioners and in

some against. Petitioners also allege that in view of the points in favour of the petitioners, the first enquiry officer was transferred. Because first enquiry officer was transferred to another place, another officer was appointed and it cannot be said to be motivated by malafides. There is procedural violation in the sense that there was no withdrawal of first enquiry and strict compliance under Rule. 66(3). I also note that name of the second enquiry officer was also not intimated.

1997 (2) KLT 85 = 1997 (2) KLJ 43 Ellakkal Service Co-operative Bank, v/s State of Kerala

Supervision and Inspection is a power conferred on the Registrar to take action independently Sections 65 and 66 - Supervision and Inspection is a power conferred on the Registrar to take action independently based on such inspection and supervision - Recommendation by Assistant Registrar in his report under S. 66 to supersede the committee is beyond the scope of the provision -Order of supersession made in pursuance to such recommendation cannot be sustained.

Section 65 contemplates inquiry by Registrar for which purpose the Registrar has got extensive power to peruse the books, accounts, documents, securities etc. summon persons and examined them on oath. Sub-section (4) of the Section says that when an enquiry is made under the Section, the Registrar may communicate the result of the inquiry to the financing bank and Sub-section (5) enables the Registrar to direct the society to take such action within the time specified. These provisions, viz. Sections 65 and 66 enquiries and inspection do not empower the Assistant Registrar to recommend the supersession under S. 32 of the Act. That would be plainly beyond the scope of these provisions. If an order is made in pursuance to such recommendation, it is contrary to the provision and such an order cannot be sustained.

1997 (1) KLT 957 = 1997 (1) KLJ 475 Sudarsanan v/s State

A separate order to be passed after enquiry Sections 65, 66 and Rule 66 - After conducting enquiry or inspection, the provisions contemplate a separate order to be passed after giving opportunity to the society.

Rule 66 of the Rules set out the procedure for the conduct of inquiry and inspection. An inquiry can be ordered on specific points. Sub-rule (5) of the Rule empowers the officer authorised to conduct an inquiry to submit a report containing his findings. The Registrar on the basis of the report shall pass such order as may be considered just and necessary after giving a reasonable opportunity of being heard to the society.

1997 (1) KLT 957 = 1997 (1) KLJ 475 Sudarsanan v/s State

Supervision and Superannuation Section 66 - An employee cannot be allowed to get always from the clutches of the law on the technical plea of attaining

the age of superannuation - Relief under Art. 226 should be refused if the exercise of the extraordinary and discretionary jurisdiction will result in gross injustice - Constitution of India, Article 226 - Service Rules (Kerala), Part III Rule. 3.

The superannuation of a delinquent/employee pending disciplinary action cannot be a ground to close the enquiry. If this court finds that the exercise of the above jurisdiction will result in gross injustice and will tantamount to helping a delinquent employee to ward off grave and serious allegations, then definitely this court will refuse to exercise its discretion in favour of such a petitioner - Co-operative Societies Act, 1969 (Kerala), Section 66.

1997 (1) KLT SN 85 P 64 Pappachan v/s State

Registrar has no power under Section 66 (5) to interfere in a show cause notice The action of the Joint Registrar staying the show cause notice issued by the society to suspend the employee was set aside by the court holding that Registrar has no power under Section 66(5) to interfere in a show cause notice issued by the society.

Judgment in **O.P. 7423/97** *dated* **9-6-97 Kadanad Service Co-operative Bank v/s Joint Registrar**

Control means to check and does not mean to take away any vested right The word 'control' can only mean 'to check' and not 'to take away any vested right'. The word control is synonymous with superintendence and management or authority to direct restrict or regulate. In State of Mysore v/s Allum Karibasappa and others Supreme Court has observed that the word control suggests check restraint or influence. *In this judgment* **(1972) 4 SCC 600 Sham Rao Vittal v/s Kasaragod Panduranga Mallaya Cooperative Bank Ltd** *and* **AIR 1974 SC 1863 State of Mysore v/s Allum Karibasappa and others** *are relied on and* **AIR 1984 SC 626 Corporation of Nagpur v/s Ramachandra G. Modak** *is referred to.*

ILR 1996 (3) Ker 1 Issac Ninan v/s State of Kerala

Board of Directors are entitled to continue the system and procedure for evaluation of the properties offered as security Valuation of the immovable properties are done by the Board of Directors which is mortgage to Society - By Circular No. 8/94 dated 24.3.1994 valuation of the mortgaged properties were entrusted to the Secretary instead of Board of Directors as was done earlier. Held that Board of Directors are entitled to continue the system and procedure that they are followed hitherto for evaluation of the properties offered as security for loans in the manner provided in the bye-laws of the Societies and the special rules framed and approved by the Joint Registrar.

Judgment in **OP 7457** *of* **1995** *dated* **6.12.1995**

Government has no power to interfere with the selection process Section 66 - Government has no power under any provisions of the Act or Rules to interfere with the selection process of a co-operative society.

There cannot be an assumption that the Government has got the powers to intervene in the day-to-day administration of the co-operative society. Government cannot restrain bank from conducting interview for appointment of clerks.

1995 (1) KLT 363 = ILR 1995 (2) Ker 156 FB Aji v/s State Bank of Kerala

Registrar cannot act in an arbitrary and capricious manner Section 66 - Registrar's power is not limited only to supervise the financial dealings of the society - Though Section 66 (1) (a) gives the power enabling the Registrar to supervise the working of the society, he cannot act in an arbitrary and capricious manner.

The position is abundantly clear that the Registrar is not a mere passive spectator against an erring society. Registrar is vested with adequate power to rescind resolutions whenever situations demand. Contention that Registrar's power is limited only to supervise the financial dealings of the society is not tenable. Merely on account of the fact that Chapter VIII is captioned with "Audit, Inquiry, Inspection and Surcharge" it would not be possible to hold that Section 66 (1) (a) containing specific provision of supervision by the Registrar cannot be given effect to. Title of a chapter cannot be given undue importance to efface the scheme of the Act. On flimsy reasons or on extraneous considerations the Registrar should not misuse the powers under Section 66 (1) (a). That power should be exercised with due caution and circumspection and only in cases where it is really called for.

1995 (1) KLT 363 = ILR 1995 (2) Ker 156 FB Aji v/s State Bank of Kerala

Enquiry and supervision Co-operative Societies Act, 1969 (Kerala) - Sections 65 and 66 - Registrar is endowed with the general power of supervision of the working of a Society which includes selection and appointment of the staff- power should not be used in an arbitrary or capricious manner. Power should be exercised with due caution and circumspection and where it is really called for. *In this judgment* **1992 (1) KLT 381 Trivandrum District Co-operative Bank Ltd v/s State of Kerala** *and* **1988 (1) KLT 827 Kottayam Co-operative Bank Ltd v/s State of Kerala** *are referred to and* **AIR 1950 SC 27 Gopalan v/s State of Madras, AIR 1980 SC 134 Income Tax Commissioner v/s Ahmedabai Umarbhai and Co, 26 All 393 Balraj Kunwar v/s Jagatpal Singh** *and* **AIR 1992 SC 573 C.E.S.C. Ltd v/s Subhash Chandra Bose** *are relied on.*

ILR 1995 (2) Ker 156 = 1995 (1) KLT 363 FB Aji and others v/s State of Kerala and others

The subordinate legislation is always liable to be questioned on all grounds on which a plenary legislation could be questioned Interpretation of Statutes - Rules under the Abkari Act - The subordinate legislation is always

liable to be questioned on all grounds on which a plenary legislation could be questioned - It may further be faulted on the ground that it is contrary to some other statute.

Subordinate legislation may also be questioned on the ground that it is unreasonable in the sense that it is manifestly arbitrary.

1994 (1) KLT 627 = 1994 (1) KLJ 257 DB Bhavani Amma v/s State

Appointment of officers Section. 66 - The appointment of officers in a Co-operative Society is a matter which comes within the purview of Section 66 of the Act and the Registrar has the necessary power to supervise the same. In exercise of that power, for effectively supervising the working of the society, certainly he will be entitled to pass appropriate orders which are necessary in the circumstances of the case. Any authority on whom a jurisdiction is conferred has got all the power of doing all such acts which are essential and necessary to its proper execution. Every authority which are essential and necessary to its proper execution. Every authority which has certain powers has the jurisdiction to pass ancillary orders to effectively exercise the power vested in him. To effectively exercise the power conferred under Section 66 of the Co-operative Societies Act, the Registrar has got the necessary power to pass such ancillary or interlocutory orders. But the impugned order is an order passed by Government. No authority or jurisdiction for shown the Government to pass such an order under any of the provisions of the Co-operative Societies Act. In that view of the matter it has to be held that the impugned order passed by Government is without jurisdiction. *In this judgment* **1988 (1) KLT 827** *is distinguished.*

1992 (1) KLT 381 = 1992 (3) ILR 37 DB Trivandrum District Co-operative Bank Ltd v/s State of Kerala

Supervising and inspecting the working of a Society Co-operative Societies Act, 1969 (Kerala) - Section 66 (1) (a) - Power of the Registrar to supervise and inspect the working of every Society includes by implication the power to pass appropriate orders with regard to appointment of officers of the Society. *In this judgment* **1990 (1) KLT 618 Kurian v/s Joint Registrar** *is affirmed and* **1984 KLT 971 Shertallai Urban Co-operative Bank Ltd v/s State of Kerala** *and* **1988 (1) KLT 827 Kottayam Co-operative Bank Ltd v/s State of Kerala** *are distinguished.*

ILR 1992 (3) Ker 37 = 1992 (1) KLT 381 DB Trivandrum District Co-operative Bank Ltd v/s Government of Kerala and others

Initiation of inquiry under Surchsrge Co-operative Societies Act, 1969 (Kerala) - Section 68 - When an order under Section 68 can be passed - On the basis of the report of an officer who has been authorised under Rule 66 to conduct an inquiry into the affairs of the society, an order under Rule 68 can be passed.

ILR 1991 (3) Ker 329 = 1991 (1) KLT 845 M.A. Razak v/s The Joint Registrar of Co-operative Societies and others

Selection and appointment in violation of guidelines of Registrar are held bad Section 66 (1) - While issuing guidelines by Joint Registrar regarding appointment of staff, society violated the same. Selection and appointment in violation of guidelines is held bad. Bank can be directed by the Joint Registrar to cancel appointments. *This judgment was affirmed in* **1992 (1) KLT 381 DB**
1990 (1) KLT 618 = 1990 Lab IC 1371 Kurian v/s Joint Registrar

Power of Registrar The registrar cannot by pass the provisions contained in Section 12 by resort to Section 66 (5).
1990 (1) KLT 530 = 1990 (1) KLJ 477 = ILR 1990 (3) Ker 1064 Janardhanan v/s Joint Registrar

Direction to take disciplinary action against secretary Registrar issuing direction to take disciplinary action against secretary of the Society pursuant to it President initiates action - Whether sustainable - The discretion to be exercised by an authority invested with such discretion in law has to be exercised uninfluenced by directions of any extraneous authority. Without direction from the Registrar, the President would not have suspended the Secretary. The action is therefore invalid.
1978 KLT 392 Gopinathan Nair v/s Registrar of the Societies

Termination of service Employees of co-operative society challenging a show cause notice issued by the society to terminate his service - Remedy is damages - Writ is not maintainable.
1976 KLT 414 Sebastian v/s Co-operative Inspector

Inquiry into working of the society Order of Registrar should indicate the specific point in which inquiry is to be made otherwise cannot be sustained.
1976 KLT 353 Cheranelloor Co-operative Society v/s Deputy Registrar

ACT

[*S**66A. Powers of Registrar to give directions:-** Subject to the provisions contained in the Act and the rules made thereunder the Registrar may issue general directions and guidelines to the Co-operative Societies in furtherance of the purposes of this Act.

S66B. Suspension of Officers:- If the Registrar, in the course of any enquiry under Section 65 or on inspection Under Section 66 or on audit under section 64 or on the report of Vigilance Officer appointed under section 68A, is satisfied that any officer other than the President, Vice President, Chairman, Vice Chairman and member of the committee of any society has done any act detrimental to the interest of the society or its members and that there is reason to believe that such officer has indulged in misappropriation, manipulation of

* Inserted by Act 1 of 2000

accounts, forgery, destruction or tempering of records of the society, he may, for reasons to be recorded in writing issue a direction to the committee of the said society to suspend the officer or officers responsible for the offence forthwith.

S68. Surcharge:- (1) If in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to the Act and the rules or the bye-laws, or has caused any loss or damage in the assets of the society by breach of trust or wilful negligence or mismanagement or has misappropriated or fraudulently retained any money or other property belonging to such society or has destroyed or caused the destruction of the records, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorised by him by an order in writing in this behalf, to inquire into the conduct of such person

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned an opportunity of being heard, by order in writing, require him to repay or restore the money or other property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

SURVIVING SECTIONS

S68. Surcharge:- (1) If in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act and the rules or the bye-laws, or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society or has destroyed or caused the destruction of the records, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorised by him by an order in writing in this behalf, to inquire into the conduct of such person

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned an opportunity of being heard, by order in writing, require him to repay or restore the money or other property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

CASE LAWS

Surcharge Notice Co-operative Societies Act, 1969 (Kerala) - Sections 66 and 68 (1) - Co-operative Societies Rules, 1969 (Kerala) - Rules 65 and 66 - Before the Registrar takes a decision under Section 68 (1), the society has no right to be heard. *In this judgment* **1997 (1) KLT 957** *is referred to.*
2005 (3) KLT 69 Murali v/s Joint Registrar

Negligence It not susceptible to any precise definition – It also refers to a reach of legal duty to take care – No case of actionable negligence will arise unless the duty to be careful exists.

It is essential in English Law that the duty should be established, the mere fact that a man is injured by another's act gives in itself no cause of action, if the act is intentional, so long as the other party is merely exercising a legal right; if the act involves lack of due care, again no case of actionable negligence will arise unless the duty to be careful exists. *In this judgment* **1997 (11) SCC 623, 1997 (1) SCC 416, 1993 (2) SCC 746, AIR 1983 SC 1986, 1998 (3) SCC 67, 1997 ACJ 1343, 1995 (1) Crimes 648, 2000 (10) SCC 649, AIR 1989 SC 2039, 2000 (2) SCC 465, 2000 (4) SCC 543** *and* **JT 1994 (1) SC 131** *are referred to.*

2003 (2) KLT SN 26 DB Poonam Sharma v/s Union of India

Sitting fees against the provisions of the bye-laws can be recovered Co-operative Societies Act, 1969 (Kerala) - Section 68 (2) - Amounts paid to the members of the Director Board of a Society as sitting fees against the provisions of the bye – laws can be recovered. *In this judgment* **1990 (2) KLT 470 A.K. Francis v/s Joint Registrar** *is relied on.*

ILR 1998 (1) Ker 170 = 1997 (2) KLT 614 DB Naveen Kumar and others v/s The Joint Registrar of Co-operative Societies and others

Wilful negligence Section 68 (2) - Merely because there was no wilful negligence in making wrongful payments of the funds of the society to others, it doesn't follow that the provisions of Section 68 (2) is not attracted.

The Registrar is empowered to take action under Sub-section. (2) of Section 68 if in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person who is or was entrusted with the organization or management of such society or who is who has at any time been an officer or an employee of the society, (i) has made any payment contrary to this Act and the rules or the bye-laws, or (2) has caused by deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, or (3) has destroyed or caused the destruction of the records. Sub-section (1) of Section 68 enumerates three distinct kinds of wrong and further envisages that a surcharge proceeding may be initiated if any one of the three kinds of wrong is committed. It cannot be said that the action is contemplated only on the occurrence of the aforesaid second kind of wrong. If any other interpretation is given, them the Registrar would not be in a position to take appropriate action against a person who without even wilful negligence makers illegal payment of the funds of the society to others because strictly speaking it would not amount to misappropriation or fraudulent retention of money. This cannot be the intention of the Legislature.

Merely because there was no willful negligence etc in making payment, it does not follow that provisions of Section 68 (2) is not attracted. *In this case* **1990 (2) KLT 470 A.K. Francis v/s Joint Registrar** *is explained.*

1997 (2) KLT 614 = ILR 1998 (1) Ker 170 Naveen Kumar v/s Joint Registrar of Co-operative Societies

Section 68 and 69 are complementary to each other Section 68 vests power in the Registrar to act in the interest of the society, its members or its creditors, against delinquent officers and employees whose conduct of the nature specified has caused loss to the society. This is an overriding power vested in the Registrar which is not intended to deny the society itself of its rights under Section 69 of the Act. Section 69 itself does not make any exception in relation to cases falling under Section 68 of the Act. The two sections are complementary to each other, liable to be invoked within their own spheres by the persons authorised.

1990 (2) KLT 594 Thrikkadavoor Service Co-operative Society Limited v/s Sivasankara Pillai

Deficiency in assets should have been found in the course of an audit, inquiry, inspection or the winding up of the society Action under Section 68 can be invoked by the Registrar in special circumstances and requires specific conditions to be satisfied before it could be invoked and an order of surcharge passed. The first of these conditions is that the illegal payment, or deficiency in assets, should have been found in the course of an audit, inquiry, inspection or the winding up of the society.

1990 (2) KLT 594 Thrikkadavoor Service Co-operative Society Ltd v/s Sivasankaran Pillai

Negligence simpliciter Negligence simpliciter is not sufficient to initiate proceeding under Section 68 - His conduct should be wilful implying culpability with an element of deliberateness or means are involved in the conduct or omission which resulted in the loss.

1990 (2) KLT 470 = 1990 (2) KLJ 428 A.K. Francis v/s Joint Registrar

The facts giving rise to the charge have to be disclosed in the course of an audit, inquiry, inspection or on the winding up of the society Section 68 - The condition precedent for the operation of the Section is that the payment contemplated or the deficiency in the assets of the society should have been found in the course of audit, inquiry, inspection or the winding up of the society. The facts giving rise to the charge have to be disclosed in the course of an audit, inquiry, inspection or on the winding up of the society.

1990 (2) KLT 470 = 1990 (2) KLJ 428 = 1991 AIR Ker 344 A.K. Francis v/s Joint Registrar

Wilful Negligence Section 68 - Wilful Negligence - another requirement of Section 68. Negligence simpliciter is not sufficient to visit the officer of a

co-operative society with proceedings under Section 68. His conduct should be wilful, implying culpability with an element of deliberateness or mens rea involved in the conduct or omission, which resulted in the loss. Without such a conduct, the Registrar is not entitled to proceed under Section 68 of the Act.

1990 (2) KLT 470 = 1990 (2) KLJ 428 = AIR 1991 Ker 344 A.K. Francis v/s Joint Registrar

No proceedings on the basis of a routine inspection No proceedings under Section 68 can be initiated on the basis of the report of the officer who has conducted only a routine inspection.

1991 (1) KLT 845 = ILR 1991 (3) Ker 329 Razzak v/s Joint Registrar

Surcharge proceedings initiated under Madras Act Surcharge proceedings initiated under Section 49 of Madras Co-operative Societies Act can be continued under Kerala Act.

1979 KLT 152 Deputy Registrar of Co-operative Societies v/s Kunhikannan

Definite finding necessary Co-operative Societies Act, 1932 (Madras) - Section 49 (1) - Order of surcharge- Conditions to be satisfied- Definite finding necessary. *In this judgment* **AIR 1965 SC 621 Sriramalu v/s Co-operative Marketing Society** *is relied on.*

ILR 1973 (1) Ker 193 = 1973 KLT 209 DB Ahammad Kutty C. v/s The Deputy Registrar of Co- operative Societies and others

ACT

[*S**68A. Vigilance Officer :-** (1) The Government shall appoint an officer, not below the rank of Deputy Inspector General of Police, as Vigilance Officer with powers to enquire into and investigate the cases of misappropriation, corruption and any other major irregularities in the society as may be referred to him by the Registrar.

(2) The Vigilance Officer shall conduct the inquiry and investigation in such manner, as may be prescribed.

(3) The Vigilance Officer shall be under the administrative control of the Registrar of Co-operative Societies.

Provided that the powers of the Registrar of Co-operative Societies under this section shall not be conferred on any other person.]

[*R**66A. Inquiry and investigation of Vigilance Officer :-** (1) The Vigilance Officer appointed under section 68A of the Act shall be under the administrative control of the Registrar.

(2) The headquarters of the Vigilance Officer shall be the headquarters of

* Inserted by Act 1 of 2000

** Inserted by SRO 380/2000

the Registrar and the staff to assist him will be provided by the Registrar.

(3) The Vigilance Officer shall have powers to inquire, investigate and report to the Registrar on any matters of corruption, misappropriation, fraud, manipulation or tampering or destruction of records or any other matters as referred to him by the Registrar. He shall have powers to call for any of the records of the society for the conduct of inquiry or investigation.

(4) The Vigilance Officer shall investigate the cases as referred to him by the Registrar. The Vigilance Officer shall not initiate inquiries suo-moto even when a complaint is made in person or in a signed petition. The Vigilance Officer shall invariably report such complaints to the Registrar who will issue necessary instructions in the matter.

(5) The Vigilance Officer shall be responsible to conduct the inquiry in matters referred to him and submit the inquiry report in time to the Registrar. He shall also be responsible to give advice or recommendations to the Registrar.

(6) If in the course of an inquiry or investigation the records of any Co-operative Institutions are required, the Vigilance Officer may summon any person related to the case for taking evidence and produce the records to the Office of the Vigilance Officer or any other office specified for the purpose. The records should ordinarily be made available to the Vigilance Officer on the date specified for it, in default the Vigilance Officer will be free to make personal visits to the Offices where the records are kept for the purpose of securing them.

(7) Cases of causing deliberate hindrance or delay to the inquiry will be reported to the Registrar and further action against the delinquents shall be taken as per the instructions given in the matter. In case the hindrance is that of a criminal nature he may take suitable action in accordance with law.

(8) The inquiry or investigation shall ordinarily be completed within a period of three months which may be extended for a further period of three months also, on satisfaction of interim report submitted by the Vigilance Officer.

(9) The vigilance Officer shall have powers to take further action on the inquiry report as per the orders of the Registrar.

(10) For the inquiry by Vigilance Officer, procedure mentioned in Rule 66(3) has to be followed.

(11) Registrar shall issue any direction to the Vigilance Officer, which shall be binding on the Vigilance Officer."]

CASE LAWS

Natural justice and vigilence enquiry Constitution of India - Article 226 – Whom a person is summoned to appear before a statutory commission, he must be served with a copy of the complaint – See – Natural Justice.

1999 (1) KLT SN 20 P 18 Tom v/s Kerala Women's Commission

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12/1982	Transfer of enquiry officers	242
16/87	സഹകരണ സംഘങ്ങളിൽ നടത്തുന്ന അന്വേഷണം, പരിശോധന, ആഡിറ്റ് എന്നിവയിൽ വെളിവാകുന്ന വിവരങ്ങൾ അനധികൃതമായി വെളിപ്പെടുത്തുന്നത് നിരോധിച്ചുകൊണ്ടുള്ള നിർദ്ദേശങ്ങൾ	243
21/87	പ്രാഥമിക സഹകരണ ബാങ്കുകൾ (അർബൻ ബാങ്കുകൾ)–റിസർവ് ബാങ്കിന്റെ പരിശോധന സംബന്ധിച്ച് പരിശോധന റിപ്പോർട്ടിന്റെ രഹസ്യ സ്വഭാവം നിലനിർത്തുന്നത് സംബന്ധിച്ച്.	244
13/88	സഹകരണ സംഘങ്ങളുടെ പരിശോധന–വീഴ്ച കൂടാതെ നടത്താൻ വേണ്ട ഏർപ്പാടുകൾ ചെയ്യണമെന്നു നിർദ്ദേശം നൽകുന്നു.	244
Lr.No.CP (2) 36678/85. Dt. 4-3-1991	കേരള സഹകരണ നിയമം 65, 66, 68 വകുപ്പ് പ്രകാരമുള്ള പരിശോധനയും അന്വേഷണങ്ങളും യഥാ സമയം റിപ്പോർട്ട് സമർപ്പിക്കുന്നതു–സംബന്ധിച്ച്.	248
37/90	Co-operative Societies Act, 1969 (Kerala), S.68-Conditions precedent to attract the section-Facts giving rise to the charge have to be disclosed in the course of an audit under S.63, inquiry under S.66 or winding up of Society-Wilful negligence meaning of-Negligence simpliciter is not sufficient-Conditions necessary to attract the section.	250
53/93	സഹകരണ വകുപ്പ്–സഹകരണ സംഘങ്ങളുടെ പരിശോധന കർശന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു	255
13/94	സഹകരണ വകുപ്പ് സഹകരണ സംഘങ്ങളുടെ പരിശോധന വീഴ്ച കൂടാതെ നടത്തുന്നതു സംബന്ധിച്ച നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.	258

No.(V2) 28723/2000 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated 3.8.2000

CIRCULAR NO.42/2000

Sub:- **Co-operative Department - Reorganisation of Vigilance Wing-Duties and functions of Deputy Registrars (Vigilance) Instructions issued.**

Ref:- **This Office Circular No.22/88 dated; 14-6-88 and 40/91 dated 27.12.1991**
2. G.O. (MS) No. 74/2000 dated 17.4.2000
3. G.O. (Rt) No. 256/2000 dated 22.6.2000

As per the Government Orders the Post of Asst.Registrar of Co-op:Societies (Vigilance) have been upgraded to the post of Deputy Registrar of Co-op: Societies (Vigilance). A Conference of Deputy Registrar (Vigilance) had been held on 19-7-2000. On the basis of discussions held and decision arrived at, the following instructions are issued in supersession of the earlier instructions issued in this regard.

The Deputy Registrars (Vigilance will hereafter be under the direct control of the Registrar of Co-Op:Societies.

2.2. The joint Registrar (Vigilance) in the office of the Registrar of Co-Op: Societies will be the immediate controlling officers of the Deputy Registrars (Vigilance).

1.3. Subject to the overall control of the Registrar of Co-op: Societies and the Addl. Registrar of Co.op: Societies (Credit & Vigilance Officer) in the Office of the Registrar of Co-op: Societies the joint Registrar Vigilance will be responsible for.

(a) Approval of monthly Tour programmes and Tour Di aries of the Deputy Registrars (Vigilance).

(b) Review of work of the Deputy Registrars (Vigilance) Monthly.

1.4. The Addl. Registrar (Credit and vigilance officer) in the office of the Registrar of the Co-op: Societies will be the reporting officers in respect of the writing up of the confidential Reports (performance appraisal) of the Deputy Registrars (Vigilance) and the registrar of Co-op: Societies will be the reviewing Officer.

2.01. The Deputy Registrars (Vigilance will conduct enquiry and submit report on all the complaints and petitions received by them from their controlling officer within the time prescribed promptly.

2.02. They should give priority to the complaints and petitions referred to them by Government and Registrar of Co-op:Societies.

2.03. They will enquire the complaints on suspected misappropriation, fabrication of records, falsification of accounts and serious irregularities in the Co-op: institutions and such other similar matters referred to them by the Government/Registrar of Co-op: Socieites.

2.04. The Deputy Registrars(Vigilance) will also enquire on allegations of corruption and other irregularities, in which departmental personnel are involved.

2.05. An onymous/pendenymus petitions against Co-operative institutions and Departmental Officers of the rank up to Assistant Registrars will also be enquired into by the Deputy Registrars (Vigilance) as and when referred to by their controlling officers, Registrar of Co-op: Societies and Government.

2.06. The Deputy Registrars (Vigilance will furnish a report on the work done/ attended to by them monthly on or before 10th of the succeding month to the Registrar of Co-op: Societies in the name cover of the joint Registrar (Vigilance) in this office in the form prescribed in Annexure I to IV. The monthly tour diary of the Deputy Registrars (Vigilance) should be submitted in proforma prescribed in Annexure V to this circular.

2. The advance Tour Programme of the Deputy Registrar (Vigilance) for a month should reach this office in duplicate before the 25th of the month preceeding the month to which the programme relates. It should be sent in the name cover of the joint Registrar (vigiance). The joint Registrar (Vigilance will after scrutiny and subject to modifications if any will return one copy duly approved within 3 days from the date of receipt of the same in this office.

3. Details of work done (Annexure VII) for the month (Prescribed by Vigilance and Anti Burea) should reach this office on or before 3rd Working day of the succeeding month without fail.

4. No deviation from the approved tour programme will be permitted in a routine manner. However if for any urgent and convincing reasons, any deviation is necessary the Deputy Registrar of Co-op:Societies (Vigilance) may report the details to the joint Registrars (Vigilance) in this office, seek sanction for deviation and then perform the programme.

5.The Deputy Registrar of Co-op:Societies (Vigilance) will give a copy of the approved Tour Programme to the joint Registrar of Co-op: Societies (General) to whom they are attached. Incase there are more than one Joint Registrar coming under his jurisdiction the other Joint Registrar / Joint Registrars should also be intimated about the details of his approved Tour programme, as far as his work in that District/ Districts is concerned.

6. A copy of the approved Tout Programme should be exhibited at a prominent place near the seat of the Deputy Registrar in the office of the joint Registrar to whom the Deputy Registrar (Vigilance is attach ed.

7. The Deputy Registrars (vigilance will keep close liaison with the Joint Registrars (General and Audit) in the Districts coming under his jurisdiction.

Whenever the Registrar of Co-op; Societies or any Addl.Registrar or Joint Registrars (Vigilance) visit the offices to which the Deputy Registrars (Vigilance) attached, the Deputy Registrars (Vigilance) should necessarily meet them and appraise them of the developments/up to date positions in respect of the cases/ petitions entrusted to with the Deputy Registrars (Vigilance)

The Deputy Registrars (Vigilance) may if found necessary consult the joint Registrars (General and Audit) of the District and Asst. Registrars(General & Audit) of the Taluk in respect of matters in which the Co-operative institutions coming under the jurisdiction of the joint Registrar of the joint Registrars and Assistant Registrars.

The Deputy Registrar (Vigilance) can request the service of the Asst.Registrars (General and Audit) of the Taluks if found necessary. The Assistant Registrars (General & Audit) of the Taluks will also make available the service of the field staff under them, if so requested by the Deputy Registrar of Co-op: Societies (Vigilance) for discharging their duties

The Deputy Registrars (Vigilance) should be present in their office on all Wednesdays and receive complaints/representation from public. Joint Registrar concerned will ensure his presence in the office on Wednesdays. Separate attendance register will be maintained.

1.09. The Deputy Registrars (Vigilance) will enquire the complaint petitions entrusted to them by the controlling officers Registrar and Government in detail and should furnish a conclusive report covering all points raised in the petition by the petitioner. The petitioner should be heared and ev idence taken in support of his allegations. If the Petitioner absconds himself from the enquiry the fact may be recorded and furnish the report on the complaint accordingly. Their report shall not be merely general observation or of the nature of passing remarks and recommending further enquiry Their reports shall be complete in all respects and they shall not recommed further enquiry or inspection.

1.10. In the course of enquiry on petitions, by the Deputy Registrar (Vigilance), serious irregularities involving misappropriation of funds, falsification of accounts, fradulent, transactions and other irregularities are brought to his notice, the Deputy Registrar(Vigilance) will furnish a detailed preliminary report to the joint Registrar of the District, through his controlling officer for appropriate action. In case of misappropriation of funds immediate appropriate action should be simultaneously taken by the Deputy Registrar(Vigilance) for recovery of the misappropriated funds and also for launching persecution steps by himself against the delinquents by utilising the services of the officers working in the Taluk. The Deputy Registrars(Vigilance) will inspect Asst, Registrars Office(General & Audit)one each under their jurisdiction in a month.The inspection report will be forwarded to the Registrar in the name cover of joint Registrar(Vigilance).

1.11. The Deputy Registrars (Vigilance) will conduct surprice inspection of at least three societies in a month. They should also be on tour for at least for 15 days during each month the surprise inspection report should be in the proforma prescribed as Annexure VI.

1.12. The Deputy Registrars (Vigilance) will ensure that the local Officer dose not take parallel action in the cases dealt with by them. This can be done by advising local Departmental Officer not to proceed with simultaneous action in cases where Deputy Registrar (Vigilance) is pursuing similar action. This does not, however, mean that the local Assistant Registrar or Inspector should wait for the arrival of the Deputy Registrar(Vigilance) for proceeding against those who have committed irregularities, defalcation etc. The local Assistant Registrar (General) or Inspector can proceedaction soon on detection of the irregularity.

1.13. The Deputy Registrars (Vigilance) will specially note that in order to file cases on misappropriation, falsification of accounts, ect. through audit or enquiry under Section 65 of the Act or detailed inspection of the accounts of the Society to bring out complete details of the same is not necessary in the first instance. An effective inspection of the records and detection of a few cases of falsifications will be sufficient for filing of the prosecution case. Further when the Deputy Registrar (Vigilance) visits a Society for enquiring a complaint the enquiry should be completed in one stretch as far as possible and report submitted without delay.

1.14. In selecting societies for surprise inspection, the Deputy Registrars should not concentrate only on one or two circles and one or two Inspection of societies under their jurisdication, all types of Societies in all the circles should be taken for surprise inspection on rotation basis. A registrer to watch this should also b e maintained in their offices.

2. Complaints of routine nature or those relating to unimportant matters, audit defects, staff matters, disqualification of Board of Directors etc. shall not be referred to the Deputy Registrars (Vigilance) for enquiry and report.

3.01. The Joint Registrars of the Districts will forward those complaints and petitions which are to be enquired in to b y the Vigilance Wing of the Department, to the Deputy Registrars(Vigilance) for enquiry and report under intimation to the Registrar of Co-op: Societies. The Deputy Registrars (Vigilance) will forward the reports on such petitions to the Joint Registrars of the District concerned within the time prescribed therein to the concerned Join Registrar who will take further action.

3.02. Enquiries under Section 65 and Section 60 and inspection 65 of the Kerala Co-op: Societies Act shall not be entrusted to the Asst.Registrars (Vigilance) without the permission of the Registrar of Co-op; Societies.

3.03. In the case of petitions/complaints received in the Registrar of Co-op;Societies Office which are to be enquired into by the Vigilance Wing such petitions shall be forwarded to the concerned Deputy Registrars (Vigilance) by the respective sections for enquiry by the Deputy Registrars (Vigilance) . Follow up action on reports of such petitions complaints will be taken by the respective sections in the head Office.

The Set up of the Vigilance Wing be as follows:-

Name of the post and Headquarters	Jurisdiction	Office in which attached.
1. Deputy Registrar (Vigilance) Thiruvananthapuram	Thiruvananthapuram Kollam Patanamthitta.	Office of the Registrar of Co-op:Societies.
2. Deputy Registrar (Vigilance) kottayam.	Kottayam Idukki	Joint Registrar(General) Kottayam
3. Deputy Registrar (Vigilance) Ernakulam.	Alappuzha Ernakulam	Joint Registrar(General) Ernakulam
4.Deputy Registrar (Vigilance Palakkad	Thrissur Palakkad	Joint Registrar (General) Palakkad
5. Deputy Registrar (Vigilance) Kozhikode	Malappuram Kozhikode Wayanad	Joint Registrar(General) Kozhikode
6. Deputy Registrar (Vigilance) Kannur.	Kannur Kasargod	Joint Registrar (General) Kannur.

7. The Deputy Registrars (Vigilance) will be given Indentification cards from the Office of the Registrar of Co-op: Societies, for which a passport size photograph of the Deputy Registrar(Vigilance) may be furnished for Further action. When an officer is transferred from the post of Deputy Registrars (Vigilance) he should surrender the identification card to this office, at the time of handing over charge of records and files to his successor.

8.The Joint Registrar (General) to whom the Deputy Registrars (Vigilance) are attached will provide them the necessary seating arrangemets and with necessary furniture and other facilities in the office. They may also provide an almirah with lock and key for the safe custody of their files and records.

9. The joint Registrar(General of the Districts will provide the office vehicles to the Deputy Registrars(Vigilance) if requested by them subject to the convenience of the joint Registrars.

10. The Deputy Registrars(Vigilance) will furnish the details of pending files/ petitions/cases registered by police Criminal cases pending with the Courts etc. as on the date of their taking charge to the joint Registrars (Vigilance of the Registrar of Co-operative Societies, Thiruvananthapuram, immediately.

11. The receipt of the circular may be acknowledged by all concerned.

(Sd)

For **Registrar of Co-operative Societies**

ANNEXURE – I

STATEMENT OF RECEIPT AND DISPOSAL OF COMPLAINT PETITIONS DURING THE MONTH

Sl. No.	Name of Society	Name and address of the petitioner	Date of receipt of petition with (Ref.No.) and date	Nature and subject matter of complaints	Date of enquiry	Date of disposal, submission date of report to controlling officer, Registrar of Co-operative Societies
	(1)	(2)	(3)	(4)	(5)	(6)

ABSTRACT

No. of Petitions pending at the beginning of the month
No. of Petitions received during the month
No. of Petitions disposed / reports submitted during the month
No. of Petitions pending at the end of the month

Deputy Registrar (Vigilance)

ANNEXURE – II

STATEMENT REGARDING YEAR-WAR PENDENCY OF THE COMPLAINT PETITIONS WITH DEPUTY REGISTRAR (VIGILANCE)

MONTH . . . . . .

Sl.No.	Name of Society and the name of the petitioner	Nature of Complaint	Date from which pending	Present stage of action	Remarks

ABSTRACT

Petitions pending period	Numbers
6 months – 1 year	……..
1 year - 2 year	……..
2 year and above	……..

Deputy Registrar (Vigilance)

ANNEXURE – III

STATEMENT REGARDING THE PROSECUTION CASES PENDING WITH THE COURTS

MONTH . . . . . .

Sl. No.	Name of Society with Crime No. / O.S. No.	Name and address of the accused	Nature of the case registered and the Court in which the criminal cases are pending	Remarks

Deputy Registrar (Vigilance)

ANNEXURE – IV

STATEMENT REGARDING THE CASES REGISTERED BY THE POLICE BUT NOT CHARGE SHEETED TO COURTS

MONTH . . . . . .

Sl. No.	Name of Society	Name & addresses of the accused	Nature of the case registered with section of the IPC etc.	Present stage of the case registered	Name of Police Station in which the case is pending

ABSTRACT

Cases registered as at the beginning of the month
Cases registered during the month
Cases charge sheeted to the Courts during the month
Cases pending at the end of the month

Deputy Registrar (Vigilance)

ANNEXURE – V

TOUR DIARY OF SRI .....
DEPUTY REGISTRAR (VIGILANCE) .....
FOR THE MONTH OF .....

Date and hour Departure Arrival	Place From To	Mode of conveyance used	Distance traveled in Kms	Name of Institution and place	Purpose of visit	Details of work done	Date of submission of report (to whom with No. and Date)	Remarks

To be submitted in duplicate to the controlling officer

Deputy Registrar (Vigilance)

No.VE/36566/01 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, Dated

CIRCULAR No. 42/2001

Sub **: Co-operative Department-strengthening of Viglance wing - arrangement for immediate effective supervsions of instructions - Circular No. 42/2000 - Modification - reg**

Ref **: This Office Circular No. 42/2000**

In partial modification of the Circular cited, the following instructions are issued, aiming at the better functioning and effective supervision of the work of Deputy Registrar of Co-operative Societies (Vigilance) in the Department.

The joint Registrars (General) of the district to whom, the Deputy registrars (Vigilance) are attached will be the immediate controlling officer of the Deputy Registrar (Vigilance) hereafter.

The joint Registrar (General) should furnish a consolidated report reviewing the work of Deputy Registrar (Vig) with his remarks to the Joint Registrar of Co-operative Societies (Vigilance)officer of the Registrar of Co-operative Societies. Thiruvananthapuram, The joint registrars of the other districts where the Deputy Registrar of Co-operative Societies (Vigilance) have jurisdiction should also furnish review on the performance of the Deputy Registrars (Vigilance) to whom the districts are allotted, covering all aspects regarding the No. of the petitions reveived enquiry conducted, submission of the report, recommendations inspection founducted, receipts of complaints/petitions from public, etc. For this purpose, Deputy Registrar (Vigilance) will attend the monthly conference of Assistant Registrars of the districts.

The Deputy Registrar of co-operative Societies (vig) will furnish sufficient number of copies of tour programmes for approved of the Joint Registrar (Vigilance) through The Joint Registrars of the Joint Registrars (General) should ensure that the work has been performed as per programme approved.

The Deputy Registrar of Co-operative Societies (Vig) should be present in the office of the Joint Registrar (General) of the district where the Deputy Registrar of Co-operative Societies has jurisdiction on all Wednesday intermittenly, and receive the complaints/representations from public/preparation of reports etc.Due publicity will be given regarding the date of visit receiving of the complaints/petitions from public etc, through District Information officer. The Deputy Registrar (Vigilance) will maintaining necessary records and furnish a list of complaints received on the date and the action taken by them on such petitions should be furnished to Joint Registrar of Co-operative Societies (Vigilance) in the headquarters. The Joint Registrars (General) will provide required facilities for the purpose.

All other instructions issued in the circular referred shall also be strictly followed.

K. Chandrasena Prasad
Registrar of Co-operative Societies in Charge

നമ്പർ ജി.(1) 41085/03 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 3.10.2003

സർക്കുലർ നമ്പർ 54/2003

വിഷയം : **സഹകരണവകുപ്പ് സഹകരണസംഘങ്ങളുടെ പരിശോധന റിപ്പോർട്ടുകളുടെ സമർപ്പണം നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്**

സൂചന : **1. സഹകരണ സംഘം രജിസ്ട്രാരുടെ 13/88 നമ്പർ സർക്കുലർ**
2. സഹകരണ സംഘം രജിസ്ട്രാരുടെ 35/91 നമ്പർ സർക്കുലർ
3. സഹകരണ സംഘം രജിസ്ട്രാരുടെ 53/93 നമ്പർ സർക്കുലർ
4. സഹകരണ സംഘം രജിസ്ട്രാരുടെ 13/94 നമ്പർ സർക്കുലർ
5. സഹകരണ സംഘം രജിസ്ട്രാരുടെ 9/97 നമ്പർ സർക്കുലർ

സൂചന സർക്കുലറുകൾ പ്രകാരം സഹകരണസംഘങ്ങളിൽ നടത്തേണ്ട ആകസ്മിക/വിശദ പരിശോധനകൾ സംബന്ധിച്ച നിർദ്ദേശങ്ങളും ഒരു മാസം നടത്തിയിരിക്കേണ്ട പരിശോധനകളുടെ ലക്ഷ്യവും നിശ്ചയിച്ചുനൽകിയിരിക്കുന്നു. എന്നാൽ സഹകരണസംഘങ്ങളിൽ ടി പരിശോധനകൾ നടത്തുന്നതിൽ വീഴ്ച വരുന്നതായും, പരിശോധന റിപ്പോർട്ടുകളിന്മേൽ തുടർ നടപടികൾ സ്വീകരിക്കുന്നതിൽ കാലതാമസം ഉണ്ടാകുകയും ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. ആയതിനാൽ സഹകരണസംഘങ്ങളിലെ ആകസ്മിക/വിശദ പരിശോധനകൾ ലക്ഷ്യം അനുസരിച്ച് നടത്തുന്നതിനും പരിശോധനാ റിപ്പോർട്ടുകളിന്മേൽ യഥാസമയം നടപടികൾ സ്വീകരിക്കുന്നതിനുമായി സൂചന സർക്കുലറുകളിലെ നിർദ്ദേശങ്ങൾക്ക് പുറമേ ചുവടെ ചേർത്തിരിക്കുന്ന നിർദ്ദേശങ്ങളും കൂടി പുറപ്പെടുവിക്കുന്നു.

1. ജില്ലാ സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽമാർ) ഓരോ സഹകരണസംഘങ്ങളിലും ടാർജറ്റനുസരിച്ച് നടത്തുന്നതിനും ആകസ്മിക/വിശദ പരിശോധനകളുടെ റിപ്പോർട്ട് പ്രത്യേകം പ്രത്യേകമായി എല്ലാമാസവും 10.ാം തീയതിക്ക് മുമ്പായി സഹകരണസംഘം രജിസ്ട്രാർക്ക് സമർപ്പിക്കേണ്ടതാണ്. അപ്രകാരം പരിശോധനയിൽ കണ്ടെത്തുന്ന ക്രമക്കേടുകളും അവയ്ക്ക് മേൽ സ്വീകരിച്ച നടപടികളുടെ വിവരവും ടി റിപ്പോർട്ടിൽ ഉൾപ്പെടുത്തേണ്ടതാണ്.

2. താലൂക്കിലെ അസിസ്റ്റന്റ് രജിസ്ട്രാരുടെ (ജനറൽ) മാർ ടാർജറ്റനുസരിച്ച് നടത്തുന്ന പരിശോധനകളുടെ റിപ്പോർട്ട് സ്വീകരിച്ച് നടപടികൾ സഹിതം ബന്ധപ്പെട്ട ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർക്ക് എല്ലാമാസവും 5.ാം തീയതിക്ക് മുമ്പായി നൽകേണ്ടതാണ്.

3. സഹകരണസംഘം ഇൻസ്പെക്ടർമാർ ടാർജറ്റനുസരിച്ച് നടത്തുന്ന പരിശോധനകളുടെയും അവയ്ക്കുമേൽ സ്വീകരിച്ച നടപടികളുടെ വിവരവും ബന്ധപ്പെട്ട അസിസ്റ്റന്റ് രജിസ്ട്രാർക്ക് എല്ലാമാസവും 3.ാം തീയതിക്കു മുമ്പായി നൽകേണ്ടതും ബന്ധപ്പെട്ട അസിസ്റ്റന്റ് രജിസ്ട്രാർമാർ ഖണ്ഡിക 2ലെ വിവരത്തോടൊപ്പം ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർക്ക് സമർപ്പിക്കേണ്ടതുമാണ്.

4. ജില്ലയിൽ ജോയിന്റ് രജിസ്ട്രാർ, അസിസ്റ്റന്റ് രജിസ്ട്രാർമാർ, സഹകരണ സംഘം ഇൻസ്പെക്ടർമാർ എന്നിവർ നടത്തിയ ആകസ്മിക/വിശദപരിശോധനകളുടെ റിപ്പോർട്ട് ചുവടെ ചേർത്തിരിക്കുന്ന വിവരങ്ങൾ സഹിതം എല്ലാ മാസവും 10.ാം തിയതിക്ക് മുമ്പായി സഹകരണസംഘം രജിസ്ട്രാർക്ക് അയച്ചു തരേണ്ടതാണ്.

എ. പരിശോധകന്റെ ഔദ്യോഗിക മേൽവിലാസം
ബി. സഹകരണസംഘത്തിന്റെ പേര്
സി. ആകസ്മിക/വിശദ പരിശോധന

ഡി. കണ്ടെത്തിയ ക്രമക്കേടുകൾ

ഇ. സ്വീകരിച്ച നടപടികൾ

എഫ്. പരിശോധനയിൽ കുറവ് വന്നിട്ടുണ്ടെങ്കിൽ അതിന്റെ കാരണം

5. മേൽവിവരങ്ങൾ സഹകരണസംഘം രജിസ്ട്രാർക്ക് അയച്ചുതരുന്നതിനുള്ള നോഡൽ ആഫീസർ ജില്ലാ ജോയിന്റ് രജിസ്ട്രാർക്ക് ആഫീസിലെ ഡെപ്യൂട്ടി രജിസ്ട്രാർ (ഭരണം) ആയിരിക്കും. വിവരങ്ങൾ സമർപ്പിക്കുന്നതിലുണ്ടാകുന്ന വീഴ്ചയ്ക്ക് ജോയിന്റ് രജിസ്ട്രാറോടൊപ്പം ഡെപ്യൂട്ടി രജിസ്ട്രാറും (ഭരണം) ഉത്തരവാദി ആയിരിക്കും.

ജോയിന്റ് രജിസ്ട്രാർമാർ മേൽ നിർദ്ദേശങ്ങൾ കർശനമായി പാലിക്കുന്നതോടൊപ്പം അദ്ദേഹത്തിന്റെ കീഴിലുള്ള മറ്റ് ഉദ്യോഗസ്ഥൻമാരുടെ ശ്രദ്ധയിൽ കൊണ്ടുവരേണ്ടതും അവ വീഴ്ച കൂടാതെ നടപ്പിലാക്കുന്നതിനുമുള്ള നടപടികൾ സ്വീകരിക്കുകയും ചെയ്യേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

നമ്പർ : ഇ.ബി. (4) 5695/04 സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസ്,
തിരുവനന്തപുരം, തീയതി 12–2–2004

സർക്കുലർ നമ്പർ 5/2004

വിഷയം : **സഹകരണവകുപ്പ് – സഹകരണ സംഘം രജിസ്ട്രാർ ആഫീസിൽ നിന്നും പുറപെപടുവിക്കുന്ന സർക്കുലറുകൾ – പകർപ്പ് സ്പെഷ്യൽ ഗവൺമെന്റ് പ്ലീഡർക്ക് നൽകുന്നത് – നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച്.**

സഹകരണസംഘം രജിസ്ട്രാർ ആഫീസിൽ നിന്നും പുറപ്പെടുവിക്കുന്ന എല്ലാ സർക്കുലറുകളുടെയും ഒരു പകർപ്പ് എറണാകുളം അഡ്വക്കേറ്റ് ജനറൽ ആഫീസിലെ സഹകരണവുമായി ബന്ധപ്പെട്ട സ്പെഷ്യൽ ഗവൺമെന്റ് പ്ലീഡർക്ക് അയച്ചു കൊടുക്കേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

തദ്ദേശസ്വയംഭരണ (ഡി.പി) വകുപ്പ്

സർക്കുലർ

നമ്പർ 9237/ഡി.പി.1/2004/തസ്വഭവ 2004 സെപ്റ്റംബർ 18

വിഷയം : **തദ്ദേശ സ്വയംഭരണ വകുപ്പ് – വികേന്ദ്രീകൃതാസൂത്രണം ബന്ധപ്പെട്ട വകുപ്പുകളിൽ നിന്നും സർക്കുലറുകളും ഉത്തരവുകളും പുറപ്പെടുവിക്കുന്നത് സംബന്ധിച്ച് നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു.**

സംസ്ഥാനത്ത് വികേന്ദ്രീകൃതാസൂത്രണം നിലവിൽ വന്നതോടുകൂടി വിവിധ വകുപ്പുകൾ കൈകാര്യം ചെയ്തു വന്നിരുന്ന പല പദ്ധതികളും തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങൾക്കു കൈമാറുകയുണ്ടായി. എന്നാൽ ടി വകുപ്പുകളിലെ ഉദ്യോഗസ്ഥന്മാരുടെ എസ്റ്റാബ്ലിഷ്മെന്റും മറ്റു കാര്യങ്ങളും അതാത് വകുപ്പുകൾ തന്നെയാണ് കൈകാര്യം ചെയ്യുന്നത്. മാത്രമല്ല ടി വകുപ്പുകളുമായി ബന്ധപ്പെട്ട പ്രൊജക്ടുകൾ ആവിഷ്കരിക്കുന്നതും തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങൾ മുഖേന ആയത് നടപ്പിലാക്കുന്നതും അതാത് വകുപ്പിലെ ഉദ്യോഗസ്ഥർ തന്നെയാണ്. അവരുടെ മേൽ തദ്ദേശ സ്വയംഭരണ വകുപ്പിന് യാതൊരു നിയന്ത്രണവുമില്ല. എന്നാൽ സെക്രട്ടേറിയേറ്റിലെ ബന്ധപ്പെട്ട വകുപ്പുകൾ ടി വിഷയ

ങ്ങൾ തദ്ദേശ സ്വയംഭരണ വകുപ്പിന് കൈമാറി എന്ന കാരണം പറഞ്ഞ് ബന്ധപ്പെട്ട കടലാസുകൾ കൈപ്പറ്റാൻ വിസമ്മതിക്കുന്നതായും ഇത് തദ്ദേശ സ്വയംഭരണ വകുപ്പിന്റെ സുഗമമായ പ്രവർത്തനത്തെ പ്രതികൂലമായി ബാധിക്കുന്നതായും ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു.

വികേന്ദ്രീകൃതാസൂത്രണം ശക്തിപ്പെടുത്തുന്നത് സംബന്ധിച്ച് 26–02–2004 – ൽ ചീഫ് സെക്രട്ടറിയുടെ അദ്ധ്യക്ഷതയിൽ കൂടിയ യോഗം ഈ വിഷയം വിശദമായി പരിശോധിക്കുകയുണ്ടായി. ടി യോഗത്തിലെ തീരുമാനത്തിന്റെ അടിസ്ഥാനത്തിൽ വികേന്ദ്രീകൃതാസൂത്രണവുമായി ബന്ധപ്പെട്ട വിവിധ വകുപ്പുകളിൽ നിന്നും വകുപ്പിന്റെ പ്രവർത്തനവുമായി ബന്ധപ്പെട്ട സർക്കുലറുകളും ഉത്തരവുകളും പുറപ്പെടുവിക്കുന്നതും സംബന്ധിച്ച് താഴെ പറയുന്ന നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു.

തദ്ദേശസ്വയംഭരണ വകുപ്പ് ഒരു നോഡൽ വകുപ്പ് മാത്രമാണ്. വികേന്ദ്രീകൃതാസൂത്രണവുമായി ബന്ധപ്പെട്ട എല്ലാ വകുപ്പുകൾക്കും അതാത് വകുപ്പിന്റെ പ്രവർത്തനവുമായി ബന്ധപ്പെട്ട ഉത്തരവുകളും സർക്കുലറുകളും പുറപ്പെടുവിക്കാവുന്നതാണ്. എന്നാൽ ഇത്തരം സർക്കുലറുകളും ഉത്തരവുകളും പഞ്ചായത്ത് രാജ്/മുനിസിപ്പാലിറ്റി ആക്ടുകൾക്കും ചട്ടങ്ങൾക്കും അനുസൃതമായിരിക്കേണ്ടതും കൂടാതെ കേരള സർക്കാരിന്റെ അധികാരവികേന്ദ്രീകരണ നയത്തിന് അനുയോജ്യമായിരിക്കേണ്ടതുമാണ്.

പ്രധാന കാര്യങ്ങൾ ആണെങ്കിൽ ബന്ധപ്പെട്ട വകുപ്പുകൾ തദ്ദേശ സ്വയംഭരണ വകുപ്പ് ഫയൽ കണ്ടതിനു ശേഷം ഉത്തരവ് ഇറക്കേണ്ടതാണ്.

ഇപ്രകാരം പുറപ്പെടുവിക്കുന്ന സർക്കുലറുകളും ഉത്തരവുകളും എല്ലാവരും പാലിക്കേണ്ടതാണെന്ന് നിർദ്ദേശിക്കുന്നു.

പി. കമാൽകുട്ടി
സെക്രട്ടറി

നമ്പർ ഇ. ബി. (1) 18343/2004 സഹകരണസംഘം രജിസ്ട്രാർ ഓഫീസ്,
തിരുവനന്തപുരം, തീയതി 22–06–2004

സർക്കുലർ നമ്പർ 23/2004

വിഷയം : **സഹകരണവകുപ്പ് – ജീവനക്കാര്യം – ജില്ലാ പഞ്ചായത്തുകൾക്ക് വിട്ടുകൊടുത്ത അസിസ്റ്റന്റ് രജിസ്ട്രാർ തസ്തികകൾ സഹകരണ വകുപ്പിന് തിരികെ നൽകുന്നതു സംബന്ധിച്ച് – എസ്. സി. എ.സ്. റ്റി വിഭാഗം സഹകരണ സംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാർമാരുടെ സേവനം ഫലപ്രദമായി വിനിയോഗിക്കുന്നതിന് നിർദ്ദേശം നൽകി ഉത്തരവ് പുറപ്പെടുവിക്കുന്നതു സംബന്ധിച്ച്**

പരാമർശം : **1. സർക്കാരിന്റെ 9899/എ3/2002/സഹ. നമ്പരിലെ 21–04–2004 ലെ കത്ത്**
2. സഹകരണസംഘം രജിസ്ട്രാറുടെ 26–05–2004 ലെ നോട്ട് ഓർഡർ

പരാമർശം (1) പ്രകാരം പ്രവർത്തന രഹിതമായ പട്ടികജാതി/വർഗ്ഗസഹകരണ സംഘങ്ങളെ പുനർജ്ജീവിപ്പിക്കുന്നതിനുള്ള പ്രവർത്തനങ്ങളുടെ മേൽനോട്ടം വഹിക്കുന്നതിനും അന്യ സാംസ്കാരിക സ്രോതസ്സുകളിൽ നിന്നും ലഭ്യമാകാവുന്ന ഫണ്ടുകൾ ലഭ്യമാക്കുന്നതിനും അവയുടെ ഫലപ്രദമായ വിനിയോഗം ഉറപ്പാക്കുന്നതിനും ടി എസ്.സി. /എസ്. റ്റി. വിഭാഗം അസിസ്റ്റന്റ് രജിസ്ട്രാർമാരെ അതാതു ജില്ലികളിലെ പട്ടികജാതി/പട്ടികവർഗ്ഗ സഹകരണ സംഘങ്ങളുടെ മേൽനോട്ടം അവരെ മാതൃവകുപ്പിലേക്ക് തിരിച്ചയക്കുന്നതു സംബന്ധിച്ച സർക്കാർ തീരുമാനം ഉണ്ടാക്കുന്നതുവരെ ഏൽപ്പിക്കുന്നതിന് സർക്കാർ നിർദ്ദേശിച്ചിട്ടുണ്ട്. ടി സാഹചര്യത്തിൽ താഴെ പറയുന്ന നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു.

നിലവിൽ ജില്ലാ പഞ്ചായത്തുകളിൽ സേവനമനുഷ്ഠിക്കുന്ന എസ്.സി./എസ്.റ്റി വിഭാഗം സഹകരണസംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാർ പ്രവർത്തന രഹിതമായ പട്ടിക ജാതി/പട്ടിക വർഗ്ഗ സഹകരണ സംഘങ്ങളെ പുനരുജ്ജീവിപ്പിക്കുന്നതു സംബന്ധിച്ച പ്രവർത്തനങ്ങലുടെ മേൽനോട്ടം വഹിക്കേണ്ടതും അന്യ സ്രോതസ്സുകളിൽ നിന്നും ലഭ്യമാക്കാവുന്ന ഫണ്ട് ലഭ്യ മാക്കേണ്ടതും അവയുടെ ഫലപ്രദമായ വിനിയോഗം ഉറപ്പാക്കേണ്ടതുമാണ്. ടി പ്രവർത്തനം സംബന്ധിച്ച് സ്വീകരിക്കുന്ന നടപടികൾ ടി എസ്. സി./ എസ്. റ്റി വിഭാഗം അസിസ്റ്റന്റ് രജി സ്ട്രാർ കൃത്യമായി സഹകരണ സംഘം രജിസ്ട്രാർക്ക് എല്ലാ മാസവും മൂന്നാമത്തെ പ്രവർത്തി ദിവസം ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർ മുഖേന റിപ്പോർട്ട് ചെയ്യേണ്ടതാണ്.

ടി സഹകരണ സംഘം അസിസ്റ്റന്റ് രജിസ്ട്രാറിൽ നിക്ഷിപ്തമായിട്ടുള്ള ടി ചുമതലകൾ ബന്ധപ്പെട്ട ജനറൽ വിഭാഗം സഹകരണസംഘം ജോയിന്റ് രജിസ്ട്രാർമാർ വിലയിരുത്തേണ്ടതും ടി നിർദ്ദേശം കൃത്യമായി പാലിക്കുന്നതിന് മേൽ നോട്ടം വഹി ക്കേണ്ടതും ടി നിർദ്ദേശം കൃത്യമായി പാലിക്കുന്നുണ്ടെന്ന് ഉറപ്പുവരുത്തേണ്ടതുമാ ണ്. ആയത് സംബന്ധിച്ച് ടി അസിസ്റ്റന്റ് രജിസ്ട്രാർമാർ സമർപ്പിക്കുന്ന റിപ്പോർട്ട് ബന്ധപ്പെട്ട ജോയിന്റ് രജിസ്ട്രാർമാരുടെ ശുപാർശ സഹിതം ഈ ആഫീസിൽ എല്ലാ മാസവും അഞ്ചാമത്തെ പ്രവർത്തി ദിവസം റിപ്പോർട്ട് ചെയ്യേണ്ടതാണ്. ഈ നിർദ്ദേശം ജില്ലയിലെ ജനറൽ വിഭഗാം ജോയിന്റ് രജിസ്ട്രാർ അടിയന്തിരമായി പ്രാബ ല്യത്തിൽ വരുത്തേണ്ടതാണ്.

കെ. കേശവൻ
സഹകരണ സംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

No.S.C.T.(2) 28456/04 Office of the Registrar of Co-operative Societies, Thiruvananthapuram, dated

CIRCULAR No. 33/2004

Sub **: Co-operation – Establishment – Assistant Registrar (SC/ST) – Duties and functions – Consolidated – regarding**

Ref **: (1) Circular No.67/83 dated, 30.05.88 of Registrar of Co-operative Societies**
(2) Circular No. SCT(2) 480/88 of Registrar of Co-operative Societies

Government of Kerala as per order No.G.O.(Rt) 64/83/AD dated 25.10.1983, accorded sanction for the creation of Assistant Registrars (SC/ST) in Districts for the effective implementation of various programs and schemes for the betterment of SC/ ST co-operatives. Accordingly their duties and responsibilities were fixed in the circulars referred to as 1st and 2nd paper above. Recently more funds were poured to the SC/ ST co-operatives under Macro-management policy adopted under centrally sponsored schemes for the revitalisation and revamping of the weak SC/ST societies. In the circumstances, it is imperative to ix duties and responsibilities of Assistant Registrar (SC/ST) by way of consolidating the duties prescribed in the earlier circulars and adding more duties for the effective enforcement for the smooth function of SC/ST societies as well as for the effective implementation of plan schemes to these societies. Accordingly following duties and responsibilities are prescribed.

1.Implementation and monitoring of Plan funds shall be attested by the Assistant Registrars (SC/ST). This includes watching of effective implementation of Plan fund and proper utilisation there of.

2. All statutory and administrative matters relating to SC/ST co-operatives will be duties of Assistant Registrars (SC/ST). They will take up the inspection of SC/ ST co-operatives in the District. The Assistant Registrars (SC/ST) should conduct one detailed inspection and two surprise inspections in a month. The form of inspection report should contain additional details regarding utilisation of financial assistance given. Each scheme assisted should be examined separately with reference to the commercial viability, recovery proposals, generating of employment and guarantee of wages of the societies. He should also assist these societies for preparation of projects for financial assistance under various plan scheme. The Plan proposals/Project of societies having positive net worth shall be prepared and recommended for assistance under ICDP/ NCDC and projects in the case of all SC/ST societies having negative net worth shall be prepared and forwarded for assistance under Macro-management policy. (C.S.S 90%).

5.Assistant Registrar (SC/ST) shall furnish D.O narrative reports to the Joint Registrar (SC/ST) office of the Registrar of Co-operative Societies not later than 5th of the succeeding month with review report of Joint Registrar (General) of the District.

6. The Assistant Registrar (SC/ST) shall visit at least 10 societies in a month and should be reported in the D.O narrative and should conduct one seminar in the Taluk level with the assistance of the respective Circle Co-operative Union. All these will be reviewed by the Joint Registrar (SC/ST) in the State Level at every month. He will furnish review report to Registrar of Co-operative Societies of further action.

7. Assistant Registrar (ST) should take initiative in organizing SHGs exclusively under each SC/ST co-operatives in the active assistance of the concerned ICDPs, SC/ST Federation and NABARD to make the SC/ST societies self reliant and member driven.

The Joint Registrars (General) of District should ensure that the Assistant Registrar (SC/ST) and field staff are discharging the above mentioned duties strictly.

Registrar of Co-operative Societies in charge

GOVERNMENT OF KERALA

No.10280/E3/01/Vig. Vigilance (E) Department,
Thiruvananthapuram, dated 25.01.2005

CIRCULAR

Sub **: Vigilance Department – Parallel Departmental Enquiry and Enquiry by the Vigilance Tribunal on the same allegations – Instructions issued**

Ref **: G.O. (P) No.65/92/Vig. Dated 12.5.1991**

In the Government Order cited, it has interalia been ordered that when an investigation/Enquiry against a Government Servant is pending in the Directorate of Vigilance Investigation, the head of Department/Office concerned shall not initiate a

parallel Departmental Enquiry on the same allegation but shall wait for the completion of the investigation/enquiry by the Directorate of Vigilance Investigation.

However, in spite of this, it has come to the notice of Government that in a particular case, departmental proceedings and Vigilance Tribunal Enquiry were conducted simultaneously on the same allegations.

In the circumstances, Government are pleased to clarify that when an investigation/enquiry against a Government servant is pending with the Director of Vigilance & Anti-Corruption Bureau/Vigilance Tribunal, the Head of Department/ Office concerned shall not initiate a parallel Departmental Enquiry on the same allegation, But shall wait for the completion of investigation/enquiry by the Director, Vigilance and Anti-Corruption Bureau/Vigilance Tribunal, however if criminal prosecution is required to be launched with regard to the same conduct which leads to the disciplinary proceedings, such prosecutions may be initiated and continued.

N. Ramakrishnan
Additional Chief Secretary & Principal Secretary to Government

GOVERNMENT OF KERALA

No. 5478/E3/04/Vig — Vigilance (E) Department,
Thiruvananthapuram, dated 18.02.2005

CIRCULAR

Sub **: Vigilance Department – Finalisation of disciplinary proceedings initiated against Government Servants in connection with Vigilance Cases – Avoidance of delay – Instructions Issued – Reg**

Ref : Letter No.A1 (3) 28658/03/GW dated 17.3.2005 from the Secretary Kerala Public Service Commission, Thiruvananthapuram

It has been noticed that there is considerable delay at various levels in the Finalisation of the disciplinary proceedings initiated against Government servants arising out of the Vigilance cases. The Secretary, Kerala Public Service Commission in his letter read above has reported that certain cases are being referred to the Accused Officers. According to the Commission, delay in various stages of disciplinary proceedings helps the delinquent Officers go unpunished.

2. Hence all Heads of Departments/Officers concerned, are directed to initiate appropriate steps to get the disciplinary proceedings finalised with minimum possible delay and to disciplinary proceedings preferably before the date on which the delinquent officer cases to be a Government Servant.

N. Ramakrishnan
Additional Chief Secretary & Principal Secretary to Government

No. 88/42/E3/04/Vig Vigilance (E) Department,
Thiruvananthpuram, dated 15.09.2004

CIRCULAR

Sub **: Vigilance Department Review of Suspension of Officers involved in Vigilance, Trap cases revised guidelines-issued**

Ref **: 1.Circular No.9713/01/91/Vig. Dated 21.5.1992**
2. Circular No.1373/E3/04/Vig. Dated 22.3.2004

As per the existing guidelines issued in circular 1st and 2nd cited suspension shall be revoked without prejudice to the pending proceedings in all vigilances cased including trap cases if the officers had been under suspension for more than 2 years even if the cases have not been charges sheeted except in cases where the Director. Vigilance & Anti-corruption Bureau, furnished sufficient reasons to prolong the period of suspension beyond 2 years.

2. It has been come to the notice or the Government that it is for warning proposals for review by Director, Vigilance & Anti-corruption Bureau to Government in such cases on Director, Vigilance & Anti-corruption Bureau, seems to have not adopted a uniform procedure in recommending revocation of suspension. So in order to formulate a uniform yardstick for one reinstatement of employee, who are under suspension in connection with Vigilance cases/Vigilance trap cased the following revised guidelines are issued for review on suspension of officers involved in Vigilance trap cases.

A. In respect of successful trap cased the accused officers who are under suspension for more than two years and whose cased have been on along will be reviewed by the suspension Review Committee and recommendations made to Government.

B. In cases where the orders or suspension were issued by other Department of the Secretariat. Heads of Departments etc. in successful trap cases the cases may be review by the suspension Review Committee only after two years of completion of suspension. Orders may be issued by the concerned only after getting the review of the Vigilance Department.

C. In cases of successful trap cases in which the charges sheets have not been filed before courts after completion of 2 years of suspension, the suspension review Committee will review the cases with recommendations of Director, Vigilance & Anti-Corruption Bureau on the point whether AOs can be reinstated and if so the specific reasons justifying the reinstatement. If the Director, Vigilance & Anti-corruption Bureau, is not recommending the reinstatement even after completion of two years of suspension, in such cases the Director, Vigilance & Anti-Corruption Bureau, will have to report specific reason justifying the prolonged suspension.

D. In cases or the successful trap cases and other Vigilance Cases which cannot be charge sheeted before the Court, but only departmental action/Vigilance

Tribunal Enquiry is possible, the existing practice of review by the Vigilance after six months of completion of suspension will continue.

E. In all trap cases the recommendation of Director, Vigilance & Anti-Corruption Bureau, for suspension of AOs. May specifically state whether the trap is a successful or unsuccessful one.

M. Ramakrishnan
Principal Secretary to Government

നമ്പർ സി.ബി. (3) 49746/04 സഹകരണസംഘം രജിസ്ട്രാറാഫീസ്,
തിരുവനന്തപുരം, തീയതി 24–05–2005

സർക്കുലർ നമ്പർ 14/05

വിഷയം : **സഹകരണം – ജില്ലാ സഹകരണ ബാങ്കുകൾ സമർപ്പിക്കുന്ന അപേക്ഷകളുടെ പരിശോധന നടപടി ക്രമങ്ങൾ ലഘൂകരിക്കുന്നതിനും കാലതാമസം ഒഴിവാക്കുന്നതിനും നിർദ്ദേശം പുറപ്പെടുവിക്കുന്നു**

സംസ്ഥാനത്തെ ജില്ലാ സഹകരണ ബാങ്കുകളുടെ അപേക്ഷകൾ, റിപ്പോർട്ടുകൾ മുതലായവ താലൂക്ക് തല അസിസ്റ്റന്റ് രജിസ്ട്രാർമാരുടെ പരിശോധനയ്ക്കു ശേഷം ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) മാർ മുഖേന സഹകരണ സംഘം രജിസ്ട്രാർക്കു ലഭിക്കുന്ന നിലവിലെ നടപടിക്രമത്തിൽ വളരെ കാലതാമസമുണ്ടാക്കുന്നതായി ഈ ആഫീസിന്റെ ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു. ടി നടപടി ക്രമങ്ങൾ ലഘൂകരിച്ച് കാലതാമസം ഒഴിവാക്കുന്നതിനായി ചുവടെ ചേർത്തിരിക്കുന്ന നിർദ്ദേശങ്ങൾ പുറപ്പെടുവിക്കുന്നു.

1. സഹകരണസംഘം രജിസ്ട്രാർക്ക് സമർപ്പിക്കേണ്ട അപേക്ഷകൾ, റിപ്പോർട്ടുകൾ മുതലായവ ജില്ലാ സഹകരണ ബാങ്കുകൾ ബന്ധപ്പെട്ട ജനറൽ വിഭാഗം ജോയിന്റ് രജിസ്ട്രാർ മുഖേന സമർപ്പിക്കേണ്ടതാണ്.

2. ടി അപേക്ഷകൾ, റിപ്പോർട്ടുകൾ മുതലായവയുടെ ഫയലുകൾ പരിശോധിച്ച് ജോയിന്റ് രജിസ്ട്രാർക്ക് റിപ്പോർട്ട് സമർപ്പിക്കുന്നതിനും ഉള്ളടക്കം ചെയ്തിരിക്കുന്ന രേഖകളുടെ പകർപ്പുകൾ, സ്റ്റേറ്റുമെന്റുകൾ തുടങ്ങിയവ സാക്ഷ്യപ്പെടുത്തുന്നതിനും ജോയിന്റ് രജിസ്ട്രാർ (ജനറൽ) ആഫീസിലെ പ്ലാനിങ് വിഭാഗം അസിസ്റ്റന്റ് രജിസ്ട്രാറെ ചുമതലപ്പെടുത്തുന്നു. ടി ഉദ്യോഗസ്ഥൻ കാലതാമസം കൂടാതെ ജില്ലാ സഹകരണ ബാങ്കിൽ നേരിട്ട് പരിശോധന നടത്തി റിപ്പോർട്ട് ജോയിന്റ് രജിസ്ട്രാർക്ക് സമർപ്പിക്കേണ്ടതാണ്.

3. ടി പരിശോധന റിപ്പോർട്ട് ലഭിച്ചാലുടൻ തന്നെ ജോയിന്റ് രജിസ്ട്രാർ റിപ്പോർട്ടോടുകൂടി ടി അപേക്ഷകൾ, റിപ്പോർട്ടുകൾ മുതലായവ സഹകരണസംഘം രജിസ്ട്രാർക്ക് അയച്ചു തരേണ്ടതാണ്. ടി റിപ്പോർട്ടിൽ ജോയിന്റ് രജിസ്ട്രാറുടെ വ്യക്തമായ ശുപാർശ/അഭിപ്രായം നിർബന്ധമായും ഉണ്ടായിരിക്കേണ്ടതാണ്.

മേൽ നിർദ്ദേശങ്ങൾ ജോയിന്റ് രജിസ്ട്രാർമാർ ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥന്മാരുടെ ശ്രദ്ധയിൽ കൊണ്ടു വരേണ്ടതും അവ പാലിക്കുന്നുണ്ടെന്ന് ഉറപ്പു വരുത്തേണ്ടതുമാണ്.

കെ. കേശവൻ
സഹകരണസംഘം രജിസ്ട്രാർ ഇൻചാർജ്ജ്

KERALA CO-OPERATIVE

AUDIT MANUAL VOLUME - I

887-938

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The Rest of the Kerala Co-operative Audit Manuel Vol. I shall be followed in the second volume of this Work.

PART I
CHAPTER I
GENERAL

1. Introduction :- The last two decades witnessed a rapid growth and vast expansion in the activities of Co-operatives in the State. There was a steep rise in the number of co-operatives of different types as well as marked diversification in their activities and substantial rise in their business operations.

The State Government was always patronising Co-operatives with liberal financial assistance like share capital, loans, subsidies, guarantees etc. In due course, the State acquired heavy financial interest in the working of Co-operatives. Therefore, the Auditors of the Department have to shoulder added responsibilities for safeguarding the interest of the State also. They have also to ensure that Government funds are properly utilised by the Co-operatives. All these necessitated that the Auditors should equip themselves with the required knowledge so that they can perform their duties with due skill and diligence.

Over a period of years, the techniques of accounting have also under-gone thorough changes and developed considerably. Therefore, the Auditors have to assist and guide the societies to maintain systematic accounts and also in introducing latest techniques, practices and procedures in accounting. This, required that the Auditors should have a through knowledge of the latest developments in Accountancy and Book-keeping.

Of late, with the emergence of a variety of Co-operative institutions like Sugar Factories, Spinning Mills, banks, housing societies, dispensaries, group hospitals, autorickshaw societies etc. the Auditors have to audit complicated transactions. This required practical and authoritative guidance on many important points. Thus, the need for a comprehensive handbook giving practical and useful guidelines in the day-to-day performance of the Auditors' duties, was keenly felt. This Manual is an attempt towards that end. This manual will be of considerable assistance in the task of equipping those engaged in Audit and management of Co-operative institutions with a knowledge of co-operative auditing.

2. Objectives of the Manual :- The objectives of the Manual are:-

(i) To serve as a ready hand book of practical guidance to the Auditors of Co-operative Societies and to those who are responsible for maintenance of accounts.

(ii) To serve as a certified hand book of Departmental instructions

relating to co-operative accounts and audit, and

(iii) To help to improve the quality of audit work and to maintain a high standard of audit.

3. Scope of the Manual :- In this manual, an attempt has been made to bring out the general principles and practices of audit and the procedure to be followed during the course of audit with special reference to the various Departmental Circulars and instructions issued by the Registrar from time to time. The procedure to be adopted in auditing the accounts of different types of co-operative societies, is also mentioned in the Manual. Besides explaining the general procedure of work, such as verification of cash, verification and valuation of assets and liabilities, examination of business transactions etc. the methods to be followed in assessing the operational efficiency, financial soundness and co-operative character of different types of co-operatives are also dealt with. Necessary instructions are also incorporated to ensure uniformity in drafting the audit reports, preparation and submission of special reports summary of defects filling in the schedules and other accompaniments to the audit note, preparation of audit programme, charging of depreciation, creation of reserves, Audit Classification etc. Wherever possible legal decisions relating to audit are also quoted. Every effort has been made to make the manual exhaustive wherever possible.

4. Audit - Definition :- The word "audit" is derived from the Latin word "Audire" which means "to hear". In the middle ages whenever the owner of a business suspected fraud he appointed certain persons to check up the accounts. The details of the transactions were narrated to a third party who, by hearing, tested the correctness of accounting. The evolution of the principles of double-entry book-keeping which was first published in 1494 in Italy, gave a filling to the growth of the science of auditing.

Spicer and Pegler have defined audit as 'such an examination of the books, accounts and vouchers of a business as shall enable the auditor to satisfy himself whether or not, the balance sheet is properly drawn up, so as to exhibit a true and correct view of the state of affairs of the business, according to the best of his information and explanation given to him and as shown by the books, and if not in what respect it is untrue or incorrect".

Audit in its general sense is an intelligent and critical examination of accounts of a business and verification of correctness of accounts with relevant documents for the purpose of ascertaining the financial position of the business at the end of a particular period, by an independent agency. Audit is not a mere verification of records maintained, but involves also an exhaustive verification of supporting vouchers and documents to ensure that the entries in the books themselves have been correctly made so as to form a true record of the transactions. The concept of audit has come to mean "such a close and careful examination of the

account books, documents and other records of a business or other organization as shall enable the Auditor to satisfy himself whether or not the Balance Sheet and the profit and loss account have been properly drawn up, so as to exhibit a true and fair view of its financial operations". An audit may therefore be described as a of its financial operations". An audit may therefore be described as a "critical examination by an auditor, of the documentary and other evidence from which the profit and loss account and the balance sheet of an organisation have been drawn up, in order to enable him to report that they present a true and fair view of the summarised transactions for the period under review and of the financial position of the organisation as at the end of the period.

Section 63(2) of the Kerala Co-operative Societies Act 21 of 1969, lays down that 'audit shall include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the Society".

5. Main objects of audit :- The main objects of audit are :

(i) To detect clerical errors and errors of principle.

(ii) To detect fraud, if any exists and.

(iii) To prevent fraud and errors.

(iv) To ascertain a true and correct state of affairs of the institution/ organisation.

1. Detection of errors :- Errors are generally innocent. But sometimes errors which might appear at first sight innocent, are ultimately found to be otherwise due to fraudulent manipulation.

Errors can be classified into the following groups:

(a) Errors of omission :- This arises when a particular transaction is omitted from entry either wholly or partly in the books. Eg:

(i) The rent for last month of the year and not shown as due.

(ii) An item of credit purchase omitted to be entered in the purchases day book.

(b) Errors of commissions :- An error of commission arises as a result of incorrectly recording a transaction either wholly or partly. In the case of whole omission, the Trail Balance will not be affected. In case it is partially and incorrectly, recorded, the result will be that the Trial Balance will be affected to that extent. Ex:-

(i) Credit sales for Rs. 400 wrongly entered in the sales day book as Rs. 450.

(ii) Rs. 250 received on A's account wrongly posted in debit side of A's account.

(c) Compensating error :- This type of error is one which is compensated by another error or errors. The result is that such an error is not disclosed by the

Trial Balance. **Ex:-**While A's account was to be debited with Rs. 100, it was actually debited with Rs. 10 and at the same time, B's account which was to be debited with Rs. 10 was actually debited with Rs. 100.

(d) Errors of principles :- Such errors arise when entries are not passed according to the fundamental principles of accounting. Errors of principle will affect the accounts considerably.

The following are a few examples.

(i) Ignoring outstanding liabilities.

(ii) Incorrect allocation of expenditure.

(iii) Wrong treatment or calculation of accrued assets.

(iv) Valuation of assets against the principles of book keeping.

(e) Errors of duplication :- Such a type of error arises when an entry in a book of original entry is made twice and posted twice.

The examination of accounts by an outside agency will no doubt create a moral check and will also facilitate early detection of frauds or errors. Fraud may take place, either in the form of misappropriation of cash or goods, or falsification of accounts, unaccompanied by misappropriation. While the former can be detected by a careful checking of accounts, the detection of the latter is not easy. As regards detection of errors, it is needless to point out that both from the point of view of the management and the employees themselves, this is a great advantage. The arithmetical accuracy of the accounts can be tested by drawing up the Receipts and Disbursements statement or Trial Balance.

(2) Location of differences or errors :- The following methods are adopted to locate an error if the trial balance does not agree:

(i) Check the totals of the trial balance.

(ii) Compare the names of the accounts in the ledger with the names of the accounts given in the trail balance. It is possible that the balance of some accounts might not have been transferred to the trial balance.

(iii) Total the lists of debtors and creditors and compare them with the Trial Balance.

(iv) If books are maintained in the self balancing system, examine whether the totals of different accounts agree with the totals of these accounts and the balance of accounts, as recorded in the trial balance.

(v) Examine whether any debit balance has been put on the credit side and vice versa.

In spite of the above methods, if the error cannot be located, it may be due to the following causes:

(i) An error of say Re. 1 or Rs.10 or Rs. 100 etc. ie. a round sum may be due to wrong totalling. If the difference is in Rupees or Paise it may be due to wrong postings or extracting a wrong balance.

(ii) An error which is divisible by '9' may be due to misplacement of figures ie. 32 for 23, 52 for 25 etc.

6. Advantages of audit :- Apart from the detection of errors frauds, a regular audit would help to keep the books of accounts of a business concern up-to-date. The fact that audit is being done at regular intervals will act as a moral check and prevent fraud and errors to a certain extent. It also helps to provide an independent opinion to the members' general body about the management of their committee and the institution. Audited accounts are usually relied upon for the purpose of assessing the income tax and sales tax and also for disbursement of Government assistance. An efficient audit is a safe guard to the creditors whose investments enable the institutions to conduct its business. The audit helps to ascertain the correct and true state of affairs of the business, which consequently enables the institution to secure necessary finance on the certificate of the audited balance sheet.

7. Different types of audit :- The different types of audit now in vogue are the following.-

(i) (a) Concurrent or continuous audit

A concurrent or continuous audit is one where the auditor visits the institution daily/regularly or periodically and "completes the examination of accounts up-to-date. It other words the audit is concurrent with the period of maintenance of accounts. This kind of audit is adopted by Societies having large volume of business and which have huge daily transactions. To conduct concurrent audit, individual societies or groups of societies can get the services of Department Auditors at their cost on request.

(b) Advantages of concurrent or continuous Audit

(1) Mistakes and frauds can be discovered easily and quickly and rectified then and there during the course of audit itself.

(2) As the auditor visits the society daily/regularly or periodically, he will be in touch with the business which helps him to gain technical knowledge of business. He will also be in a position to view critically the accounts.

(3) The final audit of accounts of the institution can be completed as soon as the year ends and certified Balance Sheet made available.

(4) The daily or regular or periodical visits by the Auditor will create a moral effect on the staff to maintain the accounts up-to-date.

(ii) Interim audit

Interim audit is one performed between two final audits. It helps the auditor to get the final audit done easier and quicker. Interim audit report has to be submitted with copy of receipts and disbursement statements for the period with the summary of defects if any.

(iii) Final audit

Final audit is the statutory annual audit. It is taken up at the close of the financial or trading period when all the accounts are balanced and a trading and profit and loss accounts and Balance Sheet prepared. The valuation and verification of assets are also done by the Auditor. Final audit of societies is generally taken up from 1st July every year. "Year shall ordinarily mean the period commencing on the first day of July of any year and ending with 30th of June of the succeeding year. With the previous permission of Registrar any registered society or class of societies may change its year to any other date. For example: the accounting year of School/College Co-operative Stores is from 1st January to 31st December'.

Societies are expected to prepare the balance sheet and profit and loss accounts every year and keep them ready for audit. These statements are to be checked by the Auditor with reference to the audited figures arrived at by them. Later on, the auditor forwards his certified Balance Sheet and his report in the prescribed from to the issuing authority, viz. the Deputy Registrar, Assistant Registrar, as the case may be. The Deputy Registrar/Assistant Registrar will scrutinise the audit report, make necessary modifications if any, require and issue certificate to the society concerned together with a copy of the Auditor's report and summary of defects, if any, on the working of the Society.

(iv) Test Audit

Test audit is one special to the Co-operative field. The Deputy Registrars/ Assistant Registrars are expected to test audit a few Societies to ascertain whether the auditor has done the audit correctly or not. This is called "Test Audit".

This involves a re-audit of the accounts of the Society, the audit of which is tested. At least one Society audited by each Auditor should be selected for test audit. If such test audit reveals serious defects the work of the Auditor concerned should be checked up by test auditing an additional Society audited by him.

While selecting societies for test audit, care should be taken to select those with sufficient transaction. The effectiveness of test audit to a certain extent depends up on the careful selection of Societies. In the case of Societies with heavy transactions, it is enough if one month's transactions are test audited. Wherever possible, test audit should be done in the presence of the Auditors concerned. The audit certificate of the Society selected for test audit should not be issued before it is test audited. The auditors should not be informed of the societies which the Deputy Registrar/Assistant Registrar, would be test auditing. Test audit is to be conducted side by side with the final audit.

8. Approach to Audit :- ***(i) Co-operative Auditor :-*** Audit normally means an examination of accounts of an institution with a view to testify their accuracy. Co-operative audit is a statutory obligation of the Registrar of Co-operative Societies. The accounts of a Co-operative Society are to be audited annually.

Co-operative audit is more comprehensive than any other kind of audit and includes an examination of overdue debts, if any, the verification of cash balance and securities and a valuation of the assets and liabilities of the society. Unlike any other kind of audit, the Co-operative Auditor has to go beyond the books and records and make personal enquiries in order to investigate the actual state of affairs of a particular issue, if he deems fit.

(ii) Audit by the Accountant General :- Accountant General's audit is mainly audit of expenditure. It aims at safeguarding the financial interest of the tax payer and also to assist the State legislature in exercising financial control and discipline over the Executive. Audit by the Accountant General may be described as an audit against provision of funds, regularity (ie. against Rules and orders) scrutiny of Rules and orders, sanction of expenditure, propriety etc.

(iii) Inspection by the Finance Department :- The examination of accounts by the Finance. Department is in the nature of an inspection and not an audit. They examine whether the controlling officers, maintain proper accounts in respect of all financial transactions and submit the prescribed returns to the Government and the Accountant General. Proper collection of revenues and loans and advances are also watched through the inspection. They also ensure whether the loans and subsidies sanctioned by Government to various schemes are properly utilised. However it is not an annual obligation.

(iv) Audit by the Local Fund Audit Department :- Like Co-operative Audit, Local Fund Audit is a statutory one. They audit the accounts of institutions which are maintained wholly or partly from Government Grants. Local Fund audit examines the financial position of the Local bodies and bring to notice wastefulness in administration and infructuous expenditure. As in Co-operative Audit, the Local Fund Auditor is not bound to make independent enquiries from private individuals or members of the general public. In other words, this audit should strictly confine itself to calling upon the Executive to furnish any necessary information as may be required by the audit. Like the Co-operative Auditor, the Local Fund Auditor is also bound to verify the cash balance in hand of the institution at the time of audit and to record a certificate of verification.

(v) Chartered Accountants :- (a) As per Section 63 of the Kerala Co-operative Societies Act, it is the statutory duty of the Registrar to Audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf the accounts of every co-operative society at least once in each year.

(b) Co-operative audit is basically different from commercial Audit; which is done by Chartered Accountants appointed by share holders. The audit of a Co-operative Society is to be done and its affairs viewed specially bearing in

mind the Co-operative Principles and guidance to be given to the institution for improvement. The Chartered Accountants need not necessarily view its affairs and accounts with this out look.

(c) Co-operative audit involves Administrative audit also. As chartered Accountants are not in touch with Administrative matters and problems of Co-operative Institutions, they may not be able to do justice in auditing these institutions. Moreover, in the case of Chartered Accountants, no effective control or supervision can be exercised by the Department over them since they are outside the Department.

CHAPTER II
CO-OPERATIVE AUDIT

1. Definition :- (i) Co-operative audit is a close examination of financial transactions, maintenance of Books of Accounts, documents and other records of a business and includes an inquiry into the affairs of the society in order to ascertain the correctness of accounts and the extent to which its activities were useful in promoting the economic welfare of its members in accordance with co-operative principles.

(ii) Co-operative audit is a more comprehensive enquiry than a mere financial audit. It is also an administrative audit.

(iii) In the words of the Maclegan Committee "The terms of the Act expressly require that the audit shall include an examination of overdue debts and a valuation of assets and liabilities. By this latter we understand not merely the preparation of balance sheets of societies, but also a sufficient cheek, in accordance with such rules as the Registrar may lay down, of the list of material assets of the members. The audit, in our opinion, extends some what beyond the bare requirements of the Act, and should embrace an enquiry into all the circumstances which determine the general position of the society. It would, for instance, be the duty of the Auditor to notice any instances in which the Act, rules or bylaws have been infringed, to verify the cash balance and certify the correctness of the accounts to ascertain that loans are made fairly for proper periods and objects and on adequate security, to examine repayments in order to check book adjustments and improper extensions and generally to see that the society is working on sound lines and that the committee, the officers and the ordinary members, understand their duties and responsibilities".

(iv) The above views of the Maclegan committee highlight the scope and duties of a Co-operative Auditor. The Co-operative Auditor cannot confine himself to the books of accounts, but should go beyond the books and make enquiries about the working and general affairs of the society. Co-operative Audit may also be described as a critical examination by an auditor, of the documentary and other evidence from which the profit and loss account and the

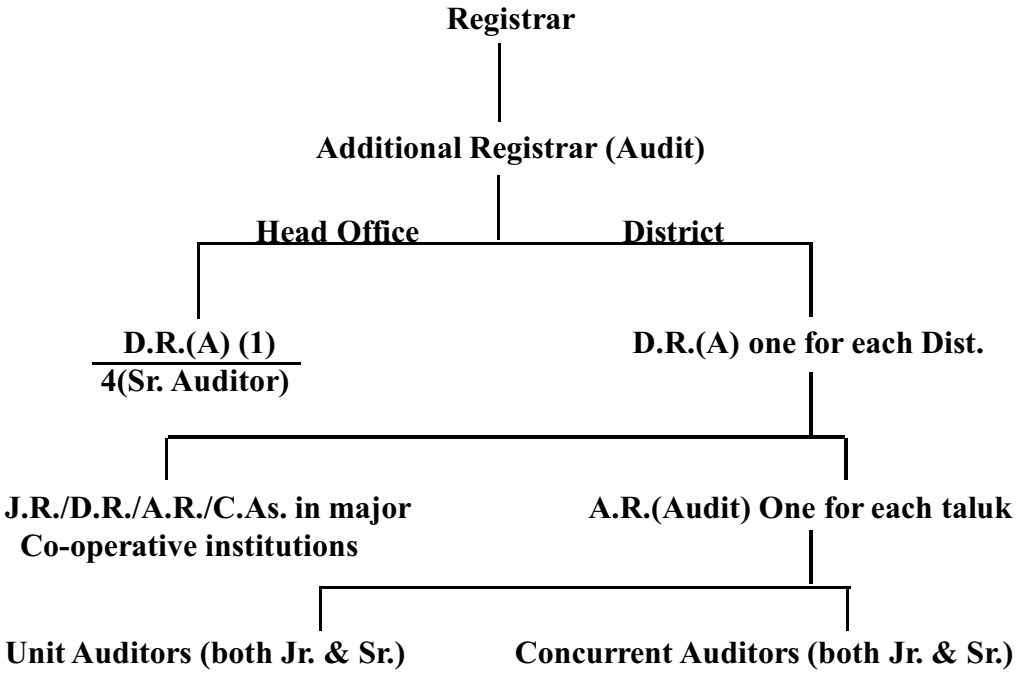
balance sheet of a Co-operative Society/Bank have been drawn up, in order to enable him to report that they present a true, correct and fair view of the summarised transactions for the period under audit and of the financial position of the society as at the end of the co-operative year.

2. Statutory provision :- As per section 63 of the Kerala Co-operative Societies Act 21 of 1969, audit of Co-operative Societies, has become the statutory responsibility of the Registrar. Subsection (1) of section 63 lays down that "the Registrar shall audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every society at least once in each year".

3. Audit at head quarters or at branches of society:- The Auditors should conduct the audit at the headquarters or branches of the society and should not remove the books or records from there.

4. Arrangement and set up for audit :- For the efficient and timely audit of Co-operative Societies there is a separate set of staff who are not concerned with the administration of societies in the department. The audit of societies other than those under the control of the Registrar of Co-operative Societies (viz. Industrial. Fisheries, Dairy etc.) is also attended to by the above audit staff in the Co-operative Department.

The following is the present set up of the audit wing in the State:-



Additional Registrar (Audit) at the Head Office is in overall control of the audit staff and exercises all powers of the Registrar, as far as audit is concerned. Under him, there are Deputy Registrars (Audit) one for each District. At taluk level there are Assistant Registrars (Audit) - on for each taluk (except in Tellicherry Taluk where there are 2 Assistant Registrars (Audit). These Assistant Registrars, who are controlled by the respective Deputy Registrar (Audit) closely supervise and guide the work of the unit/concurrent Auditors (other than Assistant Registrar/concurrent Auditors) working in the respective taluks. In almost all major Co-operative Institutions, Deputy Registrar/Assistant Registrars of Co-operative Societies are working as concurrent Auditors. Unit Auditors, concurrent/Group Auditors in other institutions, are of the cadre of Senior Inspector/Junior Inspector of Co-operative Societies.

5. Co-ordination between the concerned Administrative Department and Audit Wing of the Co-operative Department :- Close Co-ordination between the concerned Administrative Department and Audit Wing of the Co-operative Department assumes importance in the context of expeditiously conducting the audit and rectifying defects pointed out in audit. Every Co-operative Society shall prepare for each co-operative year in such form as may be specified by the Registrar, a statement of receipt and disbursement, for the year, a profit and loss account, a balance sheet and such other statements as may be specified by the Registrar". The administrative wing, during the course of supervision and inspection can give directions and guidance to the societies in the proper upkeep of accounts maintenance of records, books and registers in connection with the business of the society. It can also give suitable directions to the societies for the strict adherence of the provisions of the Act, Rules and the bylaws in its day to day transactions. On proper guidance the society can prepare and keep ready the audit statements and can also obtain confirmation statements of balances in respect of its assets and liabilities in advance for the purpose of audit. This will facilitate easy and expeditious audit of accounts.

Defects disclosed in audit will be brought to the notice of the society, as well as to the administrative wing in the form of "Summary of defects". The administrative wing can persuade the society to rectify the defects and to avoid recurrence in future. Thus, close liaison between the concerned administrative departments and audit wing of the Co-operative Department will help in a long way to improving the working of the societies and for the timely completion of their audit.

6. Difference between the audit of Co-operative Societies and of Joint Stock Companies :- (i) Section 63 of the Kerala Co-operative Societies Act 1969, lays down that the Registrar shall audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the

accounts of every society at least once in each year. The audit of a joint stock company is conducted as per section 224 to 234 of the Indian Companies Act 1956. Thus the Co-operative audit is State Controlled, while audit of a joint stock company is an annual obligation left to the company itself.

(ii) The appointment of auditor of a Co-operative Society is made by the Registrar while in a joint stock company it is made by its share holders. The auditor of a Co-operative Societies is primarily and directly responsible to the Registrar while the auditor of a joint stock company is responsible to the shareholders. As observed by Maclagan Committee "it is through audit alone that an effective control can be exercised over the movement and it is clear that it was never intended that the audit should be merely an arithmetical one and that the Registrar's activities outside audit should be confined to the inspections and enquiries. The auditing staff from whatever source they may be paid, are in our opinion responsible to the Registrar and must be mainly controlled by him. Their reports are primarily intended for his information". It is thus clear that where as in a Co-operative Society the auditor carries out the audit on behalf of the Registrar and submits his reports to him, the auditor of a joint stock company, is appointed by the share holders and makes his report to them.

(iii) A joint stock company being an association of capitalists is mainly a profit seeking concern. The important result of audit they normally expect is the disclosure of the net profit available for distribution as dividend. But in a Co-operative Society, the primary objective is to find out how far the society has been carrying on its business on sound co-operative lines and aiming at the material and moral improvement of its members. The mere fact of declaration of dividend in a Co-operative Society is not the criterion of its successful working.

(iv) Usually in a joint stock company the statement of accounts are prepared by the company themselves, whereas in a Co-operative Society the auditor may have to prepare all the statement of accounts, which will be signed by him. Even though the societies are bound to file the annual accounts in such form as may be specified, by the Registrar, such statements are made use of for compiling the state statistics. Such statements are subjected to scrutiny by the Auditor, during audit of accounts of the society.

(v) In a Co-operative Society, interest accrued and fallen overdue and interest accrued after an item of interest has fallen overdue is excluded for arriving at the net profits whereas in a joint stock company, both these items are included in calculating the net profits.

(vi) As per section 63 of the Kerala Co-operative Societies Act, the Co-operative Auditor is expected to examine the overdue debts, if any, and also to value the assets and liabilities. But in a joint stock company, the auditors simply check the valuation made by the management. Thus Co-operative Audit entails a more comprehensive enquiry than is usually made in the case of

joint stock companies.

7. Scope and special features of Co-operative Audit :- The auditor of a Co-operative Society has not only to conduct his audit according to the normally accepted principles, but has also to follow the instructions issued by the Registrar from time to time.

The special feature of audit of a Cooperative Society is to safeguard the interests of its members and the creditors including Government in their finance. The duties of a Co-operative Auditor are much more extensive than those of the Auditor of a joint stock company who has merely to certify the correctness of the Balance sheet and profit and loss account.

(i) Examination of overdue debts :- Examination of overdue debts involves a careful assessment of chances of their recovery and their classification into good, bad and doubtful. The auditor has also to examine in detail whether the society has taken effective and prompt action for recovering the overdues.

(ii) Valuation of assets and liabilities :- One of the important duties of the auditor is to verify the assets and liabilities appearing in the balance sheet. Verification of assets is process by which the auditor substantiates the accuracy of the figure at the right hand side of the Balance Sheet. After ascertaining the assets in the books of accounts of the society, the auditor has to see that all those assets correctly valued and included in the Balance Sheet. The duty of an auditor with regard to the verification of assets as disclosed in the Balance sheet will be complete only when he satisfies that those assets are in the possession and enjoyment of the institution on the date of the Balance Sheet. The auditor has also to see that such assets are free from any charge or mortgage. The verification of assets should be done also by physical verifying the documents of titles, such as negotiable instruments, share certificates, securities, debentures etc., etc.

The accuracy of the Balance Sheet and the profit and loss account depends upon the correct valuation of assets and liabilities. The valuation of an asset has to be made taking also into consideration the original cost, the probable working life of the asset and the chance of the asset becoming obsolete. The duty of the Auditor here is to see that the basis of valuation and calculation is correct and provision made for all contingencies.

With regard to the valuation of liabilities the auditor has to see that all known liabilities are brought into account and, where the amounts are not certain, the estimates made have been reasonable. The Auditor has also to see that the provisions made are adequate.

(iii) Adherence to Co-operative Principles :- In conducting business operations the Co-operatives are expected to observe certain well defined principles. A Co-operative Society is an association of members who have joined together not to earn profits on their investments but to secure resources and

services required by them. The important result expected in audit is to ascertain how far the society has achieved the objects for which it has been organised and how far it has succeeded in improving the material and moral well being of its members.

(iv) Personal verification of members' accounts and Examination of their pass books :- Personal verification of members' accounts is a safe guard to prevent manipulation of accounts by dishonest employees and office bearers, of societies. In order to ascertain whether the books of accounts of the society show the correct position, the auditor has not only to compare the entries in the books with the receipts, vouchers and other documents, but also to make enquiry by calling for explanation and personal verification of the accounts of a god number of members selected at random. In the case of rural and agricultural credit societies, the auditor has to examine the entries made in their pass books, with reference to the books of accounts of the society and has to confirm the balance in their presence.

Section 63 of the Kerala Co-operative Societies Act 1969, gives the auditor ample powers to summon members to furnish such information relating to the transactions with the society.

(v) Assessment of damages due to negligence :- If any deficiency or loss has occurred to the society due to negligence, want of proper care, misfeasance or misconduct on the part of the employees or members of the committee, or of the society, the auditor, after careful examination of the relevant records, has to assess such deficiency or loss. He is thus vested with the responsibility of safeguarding the interests of the members and creditors of the society.

(vi) Certification of bad debts :- Rules 62 of the Kerala Co-operative Societies Rules, lays down that such of the dues to the society including loans and advances and interest thereon which are found irrecoverable can be written off only after they are certified as such by the auditor appointed under Section 63 of the Kerala Co-operative Societies Act 1969.

(vii) Awarding of audit classification to the society :- On completion of the statutory audit, the authority competent under Section 63 of the Act has to award an audit classification to the society, in accordance with the instructions issued by the Registrar from time to time.

An elaborate procedure has been laid down in the method of classifying primary credit societies and noncredit societies. The societies are classified under A, B, C and D classes. Classification is made depending upon their general performance for which marks are awarded in each item. For details of classification refer to chapter No. II of part IV.

8. Auditor's duties and responsibilities :- Section 63 (2) of the K.C.S. Act 1969, lays down that the audit shall include an examination of overdue debts,

if any, the verification of cash balance and securities, and a valuation of the assets and liabilities of the society.

Therefore the auditor should:

(i) Verify the cash balance on the date of his visit and record the result of verification with his signature, date and designation. If on verification, the cash balance agrees with the book balance the result of verification may be recorded in the following form:-

"Cash balance of Rs.....(in words .....) was verified by me and found to agree with the book balance on / at the close/opening etc. of ...."

The auditor should study the bylaws of the society and ascertain as to whether the cash balance is actually kept by the person authorised to do so under the byelaws. He may also verify the manner in which it is kept. To ensure that the cash balance has been correctly noted in the cash book and that no bogus payments are entered therein, the auditor before verifying the cash balance should vouch the cash book upto date. In bigger institution, if it is not possible to conduct the mechanical checking up to date, the auditor may vouch the transaction of a day or two prior to the date of verification. If the cash balance is not forthcoming readily, he should take action as mentioned in para No. 9.

(ii) Verify whether all the books and registers prescribed in the Kerala Co-operative Societies Rules made under the Act and as prescribed by the Registrar from time to time are maintained properly and kept up-to-date;

(iii) Verify the genuineness and adequacy of all personal security, mortgage and other bonds and ascertain as to whether any of them is time barred;

(iv) Ascertain whether the personal sureties are good for their under-takings and whether the mortgage securities are sufficient;

(v) Submit a detailed report on all overdue debts, and state whether he considers them good, bad or doubtful. He should also state in detail the steps taken by the committee to realise them;

(vi) Verify the outside liabilities with Central Bank's statements of outstanding balances, and other creditors like depositors, Government and other agencies and reconcile difference, if any;

(vii) State whether any of the byelaws has been infringed or instructions of Registrar violated;

(viii) Examine whether the expenditure incurred by the societies under establishment and contingencies is within the budget allotment and whether such expenditure is reasonable;

(ix) State whether all the defects brought to light in previous audit have been fully rectified;

(x) Enquire into the details of corrections overwritings etc. in receipts, vouchers, records and registers to ensure that there is no fraud in the transactions concerned;

(xi) State whether in his opinion and to the best of his information and according to the explanation given to him, the Balance Sheet and profit and loss account exhibit a true and fair picture of the affairs of the society; and

(xii) State in the audit memorandum, whether he has obtained all the information which to his knowledge are necessary for the purpose of audit.

The Auditor has also to examine many other things before arriving at the correct balance sheet and profit and loss account. For eg., in the case of;-

(1) Credit societies and banks, the Auditor has to see that the loans are given for proper objects and periods and on adequate security as per conditions for Co-operative finance. He has also to examine the repayments in order to ascertain book adjustments, improper renewals etc. and also to verify whether timely action has been taken in the recovery of dues and overdues.

(2) Marketing Societies.-In the case of marketing societies, the auditor has to see whether the society has undertaken pooling, grading, sale of produce of members etc.

(3) Farming Societies.-In the case of farming societies, the Auditor has to see that the lands have been pooled and cultivated jointly.'

(4) With regard to other societies the auditor has to see that the business is conducted properly in accordance with the Co-operative principles and propriety observed in respect of financial aspects.

9. Powers :- The powers given to the auditor under subsection (3) and (4) of section 63 of the Kerala Co-operative Societies Act 1969 are the following.-

"The Registrar or the person authorised by him under subsection (i) shall at all reasonable times have access to all the books accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of the society and may summon any person in possession of, or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof".

"Every person who is, or has at any time been, an Officer or employee of the society, and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorised by him may require".

When the records or cash balance of a society is not forthcoming when requested for verbally by the Auditor, he can issue summons under the provisions of section 63 of the K.C.S. Act for immediate production of books and cash and serve it on the person responsible to produce the same. In the event

of failure of the Officer/office bearer to comply with the terms of the summons, the matter should be reported immediately to the Deputy Registrar with evidence of the Service of summons. An offence under section 63 is punishable under section 94 of the Act. As soon as a case of such offence is reported to the Deputy Registrar, he should take appropriate action to prosecute the delinquents concerned.

No auditing can be efficient where the auditor is not able to critically analyse the accounts so as to reveal the total picture of the institution. Mere checking of figures, however carefully done, does not and never can constitute audit. The auditor must not only be familiar with the routine work of Co-operative Accounts, but must thoroughly understand the principle and purpose of the accounts that is involved by the figures from which they are built up. He must also have knowledge of and sympathy with the objects and aims of the society.

The auditor acts as a representative of the members and, as such, is entitled not only to examine the books, vouchers and accounts for the purpose, but also to make inquiries and to receive satisfactory explanation upon all points connected with the business which seem to be material to his duty.

The status and dignity of the auditor will grow in proportion to his fitness to fill the position and to perform adequately his duties and responsibilities. The auditor should use his position, and power by advice given to the committee and if necessary, to the general body with a view to have a sound business policy being adopted. He should be courageous as well as courteous, considerate as well as strong in character and cautions in judgement as well as tenacious in exposing wrong doing.

10. Liability of Auditor :- ***(i) Criminal liability :-*** Under section 628 of the Indian Companies Act, an auditor can be held criminally liable if he certifies a balance sheet, profit and loss account or any other statement, knowledge it to be false. There is no such provision in the Kerala Co-operative Societies Act. The Auditor of a Co-operative Society can be held criminally liable only if his acts constitute an offence under the Indian Penal Code. He can be hauled up before a Criminal Court, if he has certified a balance sheet or statement knowing it to be false.

(ii) Civil Liability :- There have been several instances in which the auditor has been sued for damages. The following are a few of such instances:-

(1) An auditor certifying the profit and loss account and the balance sheet, does not merely guarantee the arithmetical accuracy of the statements, but also expresses his opinion that the statements reveal a true and fair view of the financial position of the business concern and its earnings.

(2) In the case of London Oil Storage Co., Ltd., 1904, it was held that an auditor was liable for damages if he failed to verify the existence of assets shown

in the balance sheet.

(3) In the London and General Bank Case 1895, it was held that "an auditor is guilty of misfeasance if he knows that the balance sheet fails to disclose the true state of affairs and does not report the fact to the share holders. The Departmental auditors appointed to audit the accounts of Co-operative Societies are Government servants responsible to the Registrar and are not officers of the societies, as has been held about the Auditors of commercial concerns.

(4) In regard to stock in trade it has been held in Kinnton Cotton Mills Case 1896, that it is no part of the Auditor's duty to take stock or as a valuer, he has to be satisfied not only about the arrangements made for stock taking, but also about the correctness of the valuation by testing a few of the stock sheets.

(5) In Irish Woollen Co., Ltd, 1904, it has been held that the Auditor has to see that all liabilities incurred, particularly in respect of purchases made and expense incurred, are duly brought into account and are not under stated.

CHAPTER III
AUDIT COMMENCEMENT

I. Preparation for audit and framing of audit programme

1. Intimation of audit :- Every auditor, except attached to the institution itself for continuous audit, is likely to have in his charge a number of societies for audit. In order to complete the audit work of all societies efficiently and in time the auditor should have a monthly programme fixing up priorities and get the programme approved by the Assistant Registrar/Deputy Registrar. Then the probable date on which he would commence his work may be intimated to the concerned societies well in advance, say, at least a fortnight back. The intention in giving prior notice it to enable the society to bring up its accounts upto date and also to prepare the required statements and schedules for audit well in advance, if not already done. Previous intimation would also help the society to obtain confirmation of balances of outstandings.

Since the auditor has to certify that he has obtained all the information and explanation required by him for his audit, statements and schedules containing particulars of the operations and the financial position of the society will have to be obtained and thoroughly checked by him, before completion of his audit and thereafter they will form part of his office record.

When audit of a society is to be taken up urgently due to any extra-ordinary circumstances and as per special directions from competent authority, the auditor can modify his programme and take up the audit of that society without prior notice. Likewise, where from any sources he comes to know about the existence of any fraud or misappropriation or other serious irregularity in any society under

his charge, he should with the approval of his controlling officer, visit the society and commence surprise checking of the accounts with special reference to the suspected fraud, misappropriation or serious irregularity. He has also to conduct surprise checking of cash, stocks, securities etc. of the society.

In case of societies, whose continuous and concurrent audit is being conducted no previous intimation would be necessary as the visit of the auditor are frequent.

2. Procedure to deal with complaints :- Sometimes, the Auditors may receive complaints, alleging mismanagement or serious irregularly etc. in the working of a society in his charge. In such cases, the auditor has to go through the complaint letter and see whether the allegations are of a serious nature warranting immediate action. He should acknowledge receipt of the reference and inform the complainant that the points mentioned therein have been taken note of and that they would be examined during the course of next visit to the society. If the complaint is of a serious nature warranting immediate action by the administrative wing, it should be forwarded to the Deputy Registrar, with his observations.

3. Preparation of Statements of accounts and information required for audit :- Every Co-operative Society shall prepare for each (Co-operative) year the following statements and schedules in the prescribed form and keep them ready as soon as intimation of audit is received.

(1) List of account books and registers maintained by the society.

(2) List of files relating to audit including Rectification report on the previous audit/inspection memo of the Department, Financing bank, other agency etc.

(3) Statement showing the consolidated receipts and disbursements for the year.

(4) Trading and profit and loss accounts for the audit year.

(5) Balance sheet as at the close of the year (In case of audit for a specified period a tentative balance sheet on the date upto which the audit is to be carried out).

(6) Bank reconciliation and confirmation statements as on the last day of the year. (The confirmations of bank balances should, as far as possible, be obtained directly from the Banks by the Auditor himself. The society may also be asked to request the banks to furnish the confirmation certificates direct to the auditor).

(7) List of members of the Managing-Committee/Executive Committee, Sub Committee etc. salaried officers and other members of the staff of the society.

(8) List of overdue debts in the form prescribed by Reserve Bank of India classifying them as good, doubtful or bad and details of action taken for

their recovery.

(9) Schedules of all types of personal ledger balances such as:-

(a) Shares and subscriptions.

(b) Deposits of all types such as Current, Savings, Fixed, Call, Recurring, cumulative etc.

(c) Loans, cash credits, overdrafts and all other types of advances. Separate statement indicating the loans and advances due from committee members including office bearers.

(d) List of sundry debtors and creditors, suspense payable or receivable, income received in advance, income accrued but not received, prepaid expense, deferred expenses, preliminary expenses to be written off, provisions made for outstanding liabilities etc.

(e) List of unpaid interest on all types of deposits, unclaimed dividend on shares and purchases and bonus payable (year-wise lists should be prepared.

(f) Inventories of stock on hand including stores, spare parts, raw materials, semifinished and finished goods in the case of processing and industrial societies.

(g) List of dead stock articles, furniture and office equipments, machinery, tools, implements etc. showing their purchase price, depreciation charged year after year and written down value.

(h) Lists of shares, bonds, securities, other investments etc., including receipts for fixed deposits held by the society giving their face value, Book value and Market value supported by market quotations as on the date of preparation.

(i) Particulars of immovable property held by the society, agricultural land, plots, buildings, godowns etc.

(j) Lists supporting balance sheet figures which are not mentioned above.

(k) Any other statement or schedules as may be required by the auditor for audit purpose.

4. Production of records and statements for audit and procedure to be adopted in the event of non-production of records on demand :-

As per subsection (3) of Section 63 of the Kerala Co-operative Societies Act, 1969, summons can be issued by the Assistant Registrar (Audit) / Auditors of Co-operative Societies for production of records for audit. They can issue summons to all societies including those societies under the administrative control of other Departments such as Industries, Dairy, Fisheries etc.

The form of summons may be as follows:-

"Whereas you were called upon to make available the accounts and Registrars required for audit for the year/s ..... as per this office letter No..... dated..... and whereas you have failed to make available the records on the dates specified therein, you are hereby called upon to show cause in writing within fifteen days from the date of receipt of this notice as to why further steps should not be taken, including liquidation. If you fail to send your written objections on the date specified above, or if your objection is found unsatisfactory, appropriate action according to the provisions of the Kerala Co-operative Societies Act, 1969 (Act 21 of 1969) will be taken."

Place : **Assistant Registrar of**
Date : **Co-operative Societies (Audit)**

If the society or the person responsible does not produce the records within the time-limit specified in the summons issued, the Assistant Registrar of Co-operative Societies (Audit) will send an intimation through the Deputy Registrar (Audit) concerned to this effect to :

(a) The Joint Registrar of Co-operative Societies in respect of societies under the administrative control of the Co-operative Department.

(b) The Director of Industries and Commerce/District Industries Officer, in respect of Industrial Societies.

(c) The Director of Coir Development, in respect of Coir Societies.

(d) The Secretary, Khadi and Village Industries Board, in respect of Khadi and Village Industries Societies.

(e) The Director of Fisheries, in respect of Fisheries Societies; and

(f) The Director of Dairy Development, in respect of Milk Societies.

For instances where audit is held up for want of records, see Registrar of Co-operative Societies' Circular No. 56/74 dated 21.11.1974 (ADL2-16551/74).

1. Records/in court or under Police custody
2. Records destroyed.
3. Records not written up.
4. Non co-operation of the Management in production of records.
5. Defunct nature of the institution.
6. Records with the Ex-committee
7. Non-availability of the custodian of records.
8. Records lost or missing.
9. Whereabouts of the society and records, not known.
10. Societies unstarted.

5. Additional information to be obtained in respect of some special types of Societies :- Examination of overdue debts being one of the important

responsibilities of the Auditor, he has to get full details of all overdues and the action taken for their recovery. Depending upon the nature of business operations of the societies, the Auditor will have to obtain additional statements and information. For example, in the case of a Credit Society details required for classifying all overdue debt into good, doubtful and bad will have to be obtained. In the case of urban banks etc., information regarding their loan policy, collateral security for advances, maintenance of fluid resources etc., is to be obtained. Detailed information regarding arbitration cases filed by the society and suits filed in Civil Courts and its recovery etc., will have to be obtained by the Auditor. Since the Auditor has to certify that he has obtained all the information and explanations required for his audit, statements, schedules and information on all items mentioned above will have to be obtained by the auditor before the completion of his audit and those records will be kept in his office.

6. Account books and records to be maintained by Co-operative Societies :- Rule 29 of the Kerala Co-operative Societies Rules lays down that every Co-operative Society shall keep the following account books:-

(i) Minutes book for recording proceedings of committee and of the General Body of members.
(ii) Share application register.
(iii) Admission register.
(iv) Nomination register.
(v) Day book and cash book.
(vi) Receipt book and voucher files.
(vii) General ledger and Personal ledger.
(viii) Ledgers of borrowings showing deposits, loans and other borrowings.
(ix) Register of monthly receipts and disbursements.
(x) Register of dividend.
(xi) Suspense account register.
(xii) Register of audit objection and Rectification Register.
(xiii) Property Register.
(xiv) Suspense Register.
(xv) Such other accounts and books, as are specified by Government from time to time by special or general order for any society or class of societies.

(b) In the case of societies issuing, loans, the following account books are also to be maintained.

(i) Loan application register.
(ii) Loan ledger showing the loans issued to members.
(iii) Liability Register indicating the indebtedness of each member.
(iv) Register of immovable property of defaulted members.
(v) Register of closed loans.

(vi) Register showing progress of applications for arbitration and execution.
(vii) Register of declaration made under section 36.
(viii) Register of lands cultivated by members.
(ix) Credit limit statement
(x) Decreed Loan Register
(xi) Register of liquidated societies.
(xii) Demand, collection and balance Register.

Societies which have undertaken trading or manufacturing activities, such as Consumer Societies, Marketing and Processing Societies. Handloom and Industrial Societies etc. are required to maintain purchase and Sales journals and stock Registers. Where the number of securities held by a society are many and varied, an "Investment Register" will have to be maintained. Processing and Industrial Societies will also have to maintain separate cost accounts, which will have to be reconciled with financial accounts. If the Society has undertaken distribution of Controlled Commodities, also, additional books and Registers as prescribed by the Civil Suppliers or other concerned Departments are also required to be maintained.

The auditor will also see that, besides the statutory books prescribed, societies having different objects/activities maintain other types of books required according to the nature of their business. If any society is not maintaining any of the special account books or registers required due to ignorance, the auditor should guide the office bearers in writing up such books or registers.

7. Powers of Registrar to direct accounts and other books to be written up :- procedure to be followed when accounts are incomplete.-When any society has failed to maintain proper and complete accounts as specified under Rule 29 of K.C.S. Rules, the auditor should report the matter to the competent authority through his immediate superior.

The officer competent will then issue an order under Rule 30 directing the society and its office bearers to bring the accounts up-to-date and to furnish necessary statements and information required by the Auditor. If, after a reasonable, time, the directions are not complied with, orders will be passed invoking Rule 30. In such cases Registrar is competent to authorise any person to writ up the accounts at the expense of the society through a person/persons authorised by him. The cost will be determined taking into account the time involved and the emoluments of the officers deputed to attend to the work (Rule 30).

8. Period for which the account books are to be maintained by the societies :- Rule 31 of the Kerala Co-operative Societies Rules, specifies the period for which the societies are to keep their records after they are audited by the Department.

9. Auditor not to pass entries in audit without proper understanding :- In the course of audit, the auditor has to get him self satisfied of the genuineness

of the transactions recorded in the books of accounts of the society. Before commencement of audit of the accounts, the auditor should be acquainted with the nature of business transactions undertaken by the society and the various aspects connected with it. It may not also be possible that the auditor is fully familiar with the type of business conducted by the society. He may also be not knowing the technical aspects of the transactions of different types of societies in his charge. Therefore, it is necessary that he should supplement his knowledge by obtaining additional information about the nature of transactions. For this, he should not hesitate to elicit information for the technical details on items about which he has no sufficient experience. An honest admission of ignorance of technical matters will always win more respect than an assumption of knowledge which he is not in fact possessed of. An auditor is not, therefore, expected to pass on entry unless he understands the full implications of the transactions recorded in the books of accounts of the society.

10. Internal Check :- Internal check is a system under which the accounting methods and details of an establishment are so laid out that the accounts and procedure are not under the absolute and independent control any one person, but on the contrary, of the work of one employee is complementary to that of another. In other words, it is a system of arrangement of accounts to facilitate distribution of work in such a manner that the work of one person is automatically checked/rechecked by another. The system of internal check facilitates speedy detection of omissions, frauds, errors etc.

11. Internal Audit :- Internal audit means audit of accounts of the institution by the employees of the very same institution (audit wing of the institution deputed for the work). The work is done by a separate section of the staff, who may or may not be qualified auditors. This is a type of continuous audit by the staff. In institutions where internal audit wing if functioning efficiently and independently, the auditor can depend on their checking to a certain extent. The existence of internal audit wing will minimise chances for committing frauds and errors.

12. Difference between internal audit and statutory audit :- (1) On accounting matters, both internal audit and statutory audit operate in the same field. Each of them aims at ascertaining whether internal check and accounting systems are good and serve the purpose.

(2) The internal auditor/auditors is/are being appointed by the Board of management/general body of the society, where as the appointment of statutory auditor is according to the statute.

(3) The internal auditor checks the accounts to ensure whether the

accounting system is perfect and it discloses material facts. On the other hand, the statutory Auditor has also to satisfy himself that the final accounts exhibit a true and fair view of the state of affairs of the business transactions of the society and the position of its assets and liabilities as on a given date (30th June).

(4) The internal auditor is primarily responsible to the Board of Management/General body and thus he has only a less independent status when compared to the same enjoyed by a statutory auditor.

(5) Both of them have more or less the same field of work and, therefore co-ordination between them may result in achieving best results.

13. Internal Control :- By internal control it is meant "the system established by the management in order to carry on the business of the society in an orderly manner, safeguard its assets and secure as far as possible the accuracy and reliability of the records. Internal control thus includes both internal check and internal audit-If, there is an internal audit department".

The basic principles of internal control are explained below:-

(i) All remittances received should be immediately acknowledged. Official receipts from the printed receipt book should be issued to the parties by the person authorised under the bye-laws. In cases where official receipts are not necessary, viz, for withdrawal from bank, encashment of cash certificate, etc., the correct recording of the transactions should be ensured.

(ii) All payments should have been properly authorised and the vouchers should bear the signature of the payee and the details required.

(iii) The byelaws of each society should contain provision regarding the maximum amount of cash that can be retained and the designations of the officers responsible for its custody. The closing balance of cash on hand should be mentioned in words and in figures.

(iv) The-Day Book and other subsidiary ledgers should be written up-to-date.

(v) Monthly statements of accounts viz, a statement of receipt and disbursement, a provisional trading and profit and loss account etc., should be prepared and placed before the managing committee meetings for approval.

(vi) The duties and responsibilities of paid employees and matters to be attended to by the committee members should be clearly defined. Necessary subsidiary byelaws in this regard should also be got framed and got approved by the competent authority.

(vii) Cash, stocks, fixed assets, furniture and fittings, machineries, tools, equipments, vehicles, raw materials, stores, finished goods and other properties etc. of the society should be adequately insured in time.

14. Reconciliation of Bank accounts :- Bank reconciliation statements have to be prepared at regular intervals by the Cashier or the officer who receives

the cash. During the course of audit, the auditors should compare the debits and credits shown in the Bank statements/pass books with the entries in the book and counterfoils of the pay-in-slips/cheques issued. Contra items either in the cash book or in the pass book should also be enquired into in detail. Items pending reconciliation at the end of each period should be traced out and reconciled in the following period. Any abnormal variation in the dates should also be specially taken note of.

15. Test of percentage checking :- During the course of audit, the auditor has to trace a transaction through various stages from the origin to its conclusion, examining at each stage the vouchers, records and authorities relating to it. Where the business transaction is of a voluminous nature this sort of detailed checking may not be possible. In such cases the auditors have to make a careful evaluation of the system of internal control in operation. If their appraisal proves satisfactory, they may, in appropriate eases, rely on a test or percentage checking of records/ transactions. It is needless to point out that selection of the period for test/ percentage checking should be made carefully and the examination of the transactions of that period should be Sufficiently detailed. But where frauds and serious irregularities are suspected or noticed, a more exhaustive checking/verification should be carried out.

16. Preparation of programme of audit :- Audit, to be methodical and efficient, it is necessary that it should be carried on regularly according to a definite programme. Audit programme is a scheme setting out in detail the different phases of work to be done in the course of audit within a fixed time. The programme, to be effective, has to be based on a standard model, which would contain all the necessary items. It will not only record the exact nature of work to be performed by the Auditor and his staff, but will also have columns for the initials of the persons performing each part as and when they complete it. Audit programme will give the auditor a clear idea as to what has been done and how he has carried out his work and, how he has to finish the remaining work logically and efficiently. It will also guard against any possible omission and ensure thorough and systematic checking.

17. Revision of audit programme :- The programme of audit has to be drawn up after careful examination of the nature of transaction of the society, so that all important items should receive due attention. The programme thus drawn up enables the auditor to carry on his work in a methodical and planned way. It is however not a rigid programme. It may have to be revised often during the progress of audit and according to the volume of work in each society.

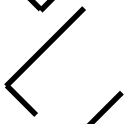
18. Maintenance of working sheets :- Working sheets properly drawn

up and with details of work done in respect of every society, might prove to be of great value to the auditor later on. Therefore the auditor should maintain the working sheets. The working sheets may contain the following particulars.

(i) Various questions raised during the course of audit.
(ii) All important errors/omissions that are detected.
(iii) Explanations and information received for the queries raised.
(iv) Details of all missing vouchers, receipts, invoices etc.
(v) Points which need discussion with the office bearers of the society.

From the working sheets maintained by the auditor the progress and stage of audit can be easily ascertained.

19. Use of ticks or check marks :- While carrying out checking for the mechanical audit, the Auditor has to make "ticks" or "check marks" for every entry in an account book/register/record examined by him and also initial or cancel vouchers. Cancellation of voucher can be done by putting the initial of the auditor on the face of the voucher. It is desirable that there should be some distinctive in the ticks or check marks used by the Auditors, indicating the different processes and procedures of audit. The following are a few examples or check marks used by auditors.

			Type of Ticks
(i)	Posting	On the right hand side of the figure close to the last digit.	
(ii)	Casting of totalling	On the left hand side of the figure checked.	
(iii)	Carry forward	Same as above with an additional posting tick across the tick line.	
(iv)	Calling over or comparing	At the bottom of the figure	
(v)	Vouching	On the left side of the figure	
(vi)	Bank pass book or statements	The posting tick on the right hand side of unticked items ie., items appearing in reconciliation would have the letter "R" placed on the right hand side	R
(vii)	Contra or transfers	On the right handside	C

These ticks or check marks should be distinctive and be indicative of the particular process or procedure carried out or the test applied for. Particular care should be taken to see that the significance of these ticks is not known to the staff of the society whose accounts are being audited.

20. Use of coloured inks or pencils for audit :- For marking of the ticks or check marks the auditors are required to use coloured inks or pencils where checking of accounts is carried out through clerks or assistants of the auditors, they should be required to use inks or pencils of a different colour than is used by the auditor. The staff of the society should be requested not to make use of these coloured inks or pencils for their internal checking.

21. Entries in pencils to be inked before checking :- Quite often the auditors come across entries/totals recorded in pencil. As there are more chances for altering the figures written in pencil, the auditors are warned against accepting entries in pencil. They have to instruct the accountant or the officer in charge of writing the accounts to ink out the figures and authenticate them and see that it is done before checking is commenced.

22. Accounts to be got written before commencement of audit :- As far as possible, the auditor should commence the checking of account books only after they have been written up completely for the period of audit. Each stage of work should be completed in one sitting if possible. While checking Day Book with vouchers for a month or other specific period, the entire vouchers relating to the period should be checked and notes made about the missing vouchers and irregular payments. Similar is the procedure with regard to the checking of loan bonds, postings, etc. The suggestions are of special importance to the Auditors who work as continuous or concurrent auditors.

II Preliminaries to be gone through by the Auditors

In commencing the actual work of audit, the Auditor should not plunge into his work straight away. As Co-operative Audit includes administrative audit also it can be done usefully and effectively only if the Auditor is well prepared before commencement of the work.

1. He should be through with the provisions of the Co-operative Societies Act and Rules.

2. He should be well conversant with the directions issued by the Registrar of Co-operative Societies from time to time.

3. He has to examine the byelaws of the society with special reference to the value of shares, restrictions on holding of shares by a member, the credit limit of the society and of the individual members, the person or persons authorised to receive and pay money, rate of interest etc. It has also to be examined whether the bylaws framed and registered are in consonance with the provisions of Kerala Co-operative Societies Act and the Rules.

4. He should also obtain a list of the books and registers maintained by the society and study the relationship of each book or register to another.

5. He will examine whether the society has maintained all the books and registers prescribed under the Kerala Co-operative Societies Rules

6. The auditor should see that the person who writes/verifies the books/ records etc., invariably attest the same in token of the correctness of entries.

7. He has also to ascertain the nature of the duties and responsibilities of each member of the staff and find out whether those have been defined in an office order or by a detailed resolution of the Board of Directors.

8. The Auditor should also examine the opening balance sheet and previous years audit report together with the summary of defects, if any, to understand the nature and working of the institution.

He can then chalk out a programme of work and do the work in a methodical way. To facilitate correct compilation of audit report it is always desirable that the auditor maintains a complete and permanent record of work done viz. "working sheets" during the audit of each society. This will be more helpful for purpose of reference later, if necessary.

In the case of large sized societies where concurrent audit is done, the audit programme is to be chalked out in such a manner to complete the audit as prescribed. If there are more than one society in the group, the programme should be such as the auditor could visit all the societies simultaneously.

III. Various stages of practical work

The practical work of an auditor can be divided into three main parts.

(i) Mechanical audit (ii) Administrative Audit. (iii) Preparation of final statement and the Audit report.

(i) Mechanical Audit

Mechanical audit aims at ensuring the accuracy of accounts recorded in the books of the society. It consists of vouching receipts and payments in the Day Book with special reference to the receipts and vouchers. The Day Book is checked also to assess the correctness of the daily balancing. As the Day book is the book of original entry in a Co-operative Society and forms the basis of all other books and accounts, the auditor should begin his work with the Day book. After the entries in the Day Book are checked, completely with the receipts and vouchers, the auditor should verify them with the entries in subsidiary corresponding ledgers (viz admission register, deposit register, loan ledger etc.) so as to ascertain whether all the receipts and payments found in the Day Book have been duly entered in the respective ledgers. This kind of checking may bring to light errors of omission or commission in the ledger or in the Day Book.

Finally, the entries in the general ledger should be checked direct from the Day book. When all the ledgers have been checked with the day books, a list

of outstandings under various heads viz., share capital, loan, borrowings, deposits, advances, suspense etc. should be drawn up from the concerned ledgers. He should then examine whether the totals arrived at by him agree with those balances in the general ledger etc.

(a) Cash Book :- Cash book is usually maintained in Apex, Central, major and large sized societies. Only cash transactions are noted in the cash book. But in the Day book all transactions (cash and adjustment) are entered.

(b) Day book and Checking of receipts :-

The items in the receipt side of the day book should be checked at first with the Counterfoils of receipts. The auditor should verify whether the receipts are authenticated and all the items of receipts have been properly brought into account then and there

To prevent possible misappropriation of amounts received by the society under loans etc., it should be verified whether the signatures of the borrowers depositors or of their agents paying money on their behalf are obtained in the counterfoils of receipts/chalans. In case of doubt, the auditor should call for the originals of receipts issued and compare them with the counterfoils kept in the society and also take note of the result of such verification in the audit report. In cases where the persons remitting the money are illiterate their certified thumb impression (L.T.) should be obtained on the counterfoils of the receipts/chalans. For receiving moneys societies should use only printed and machine numbered receipt books. There should not be any missing number of counterfoil left blank or incomplete. In such cases explanations are to be obtained and verified with the evidences available. In the case of cancelled receipts the originals should remain tact or attached with the counterfoil. As far as possible separate receipts may be issued for two accounts paid together. After verification, if the auditor is satisfied, a tick should be given against the corresponding entry in the Day Book, and the counterfoil cancelled with the auditor's initials with date. The dates of the counterfoils should be scrupulously compared with the date of corresponding entry in the Day Book and checked whether there is delays in crediting the amount.

There may be withdrawals from financing banks, post office savings account, deposit accounts etc. or adjustment entries not supported by counterfoil of receipts. In the case of withdrawals from bank, post office savings account etc, the certified counterfoils in the cheque book should be checked. For adjusting entries, the existences of proper vouchers for the corresponding payments will suffice.

(c) Day Book and verification of disbursements :- The vouchers should relate to the transactions of the society, and specify the number, amount, date, purpose and nature of payment to whom and by whom paid etc. They should be filed in the order of the entries in the day book. Acceptance of signature or thumb

impression or mark of the payee in the Day Book itself is not allowable. Separate and complete vouchers should be obtained and posted in the voucher file book. Petty payments may be passed, if found reasonable, and supported by the certificate of the disbursing officer even if no proper voucher is available.

Separate receipts from payees for sums sent by money order are not necessary. If the remittance is made at the request of the party, the postal receipt showing commission paid, acknowledgment of the party for the net sum and his written requisition are enough for the auditor. But if the amount is sent without the request of the party, then copy of the notice of the society asking the party to receive the amount within a specified period with the intimation that in case of failure, the amount will be sent by Money Order at his cost, together with his postal acknowledgment are enough. If the postal acknowledgment is found to be defective/doubtful the society should address the postal authorities and ascertain whether the recipient of the money order had been duly authorised to receive it. A perusal of the postmaster's reply will enable the auditor to decide passing or objecting of the expenditure.

Vouchers furnished by the members of a Co-operative Society and those coming under the business of the Co-operative Society, are exempted from stamp duty. Those vouchers exceeding Rs. 20 and representing any kind of payment to non-members should bear revenue stamp. Vouchers for disbursement of pay and allowances (including T.A) and acquittance of employees are also not exempted from stamp duty. For payment of advances like salary advance, T.A. advance, bonus advance, onam advance etc. exceeding Rs. 20 also requires stamp. A cash memo (cash bill) exceeding Rs. 20 does not require a stamp (or stamped receipt) as it is not a receipt within the definition of the stamp Act. A cash memo or cash bill without any proper indication of the number and name of the society should not be taken as a valid voucher. In such a case stamped receipt in proper form should be insisted. The vouchers checked should be cancelled as in the case of counterfoils of receipt books, with the initials of the auditor with date. The object of initials is (1) in respect of a counterfoil to see that all items received are accounted and brought into the cash book and (2) in respect of a voucher to disfigure it so that it cannot be used again in support of another entry.

(d) Besides collecting information by means of personal enquiries whenever necessary, the auditor should also obtain particulars from available records such as receipt book, Day Book, Loan, Ledger, Borrowing Ledgers etc. duly examined.

1. Receipt Books :- The auditor should see whether there are any folios missing or any receipts without his initials or any counterfoils left blank. In case of doubt regarding any miscredit, he should call for some of the receipts and pass books from the members and compare, them with the entries in the concerned

books of the society.

2. Day Book :- The Day Book should be written in the chronological order as the transactions took place. It should be closed on all days having transactions and the closing cash balance recorded both in words and figures. It should be signed by the Secretary and any other person authorised under the byelaws. In the case of retention of heavy cash balances, the Auditor should obtain the explanation of the officers concerned and examine whether they are satisfactory. Reloaning from out of the collection from members or repayments to Central Bank from fresh loans obtained therefrom, should not be done in any circumstances. No transactions suggestive of book adjustments, should also be resorted to at any cost.

3. Loan Ledger :- The auditor should verify whether any of the item is not initialled by him. If any such case is detected he should examine them in detail and take note of . He should also ascertain whether prompt and effective action has been taken to realise the overdues. He has also to examine whether there are any time barred loans against which no action is taken.

4. Ledger of Borrowings :- When societies remit their dues the Central Bank through transmitting agencies, differences may occur in the dates between entries in the books and those in the receipts. The auditor should scrutinise each and reconcile the difference. In the case of fixed deposits etc. the Auditor should see wether they are repaid or refunded on maturity. The maximum borrowing power fixed in the bye-laws, may be compared with the actual borrowings.

5. Admission Register :- The Auditor will verify whether the dates of admission and withdrawal are correctly entered and the signatures of the members obtained in the appropriate column at the time of admission / withdrawal. Arrears of share capital should also be taken note of. It shall also be seen whether there is proper sanction of committee for admission of members, allotment of additional shares of refund of shares. Collection of entrance fees should also be noted. It has to be ensured that provisions of byelaws and Act and Rules are observed in collection, transfer and refund of shares.

6. Minute Book :- The auditor should see whether periodical meetings are held as per provisions in the Bye-laws and resolutions are properly recorded in the Minute Book and duly attested by the Directors. He should also verify the relevant resolutions with his dated initials.

7. Property statement :- In a society with unlimited liability, the Auditor should arrange for the assembly of as many members as possible and read out to them the assets and liabilities together with their net assets, so as to verify the correctness of the particulars noted. He should also make independent enquiries, satisfy himself and also compare the maximum credit limit of the society with the net assets.

8. Register of investment :- The auditor should see that all investments such as share in other institutions K.S.D. loans, cash certificates etc. made by the society are entered in this register and interest there on is worked out and collected periodically. The auditor should check the investments with reference to the share certificates/bonds/other documents relating to such investments.

9. General Ledger :- The auditor should see that every entry/total of each head, in the day book is posted into the general ledger under proper head of accounts. Omissions, commission and wrong postings in the general ledger should be rectified then and there. The casting of each head of account in the day book and in the general ledger should be checked before striking the daily monthly balance in the general ledger.

10. Inspection report :- The auditor should verify some of the inspection reports and see whether the supervision was adequate, efficient and effective. He should, as far as possible, try to get the errors and commissions duly rectified during his stay in the society. Defects that could not be rectified then and there should be reported to the Deputy Registrar (Audit).

(ii) Administrative Audit

This is the special feature of Co-operative audit. The duty of the Co-operative Auditor is not merely to find out the errors and omissions and/or commission, but also to ensure the accuracy of the maintenance of accounts and also to arrange for the rectification of defects pointed out in the earlier audit certificates and inspection reports. He is also expected to go beyond the books and records and also to gather as much detailed information as is required to understand fully the implication of the transactions of the society. For this purpose, the auditor can collect information by personal enquiries, wherever necessary, and obtain particulars from available records in order to expose any fraud or misappropriation. The Co-operative Auditor should as far as possible, endeavour to see that the errors of commission and omission are rectified before the audit of that society is finalised. Such of the defects, which are serious and cannot be rectified on the spot should be reported to the competent authority together with his suggestions for further action and improvement.

Recent thinking on management and management principles has brought about a change in the concept of audit and widened its objectives. Emphasis of audit is now being shifted to the examination of administrative polices and its effects on the financial morality of transactions, the efficiency with which the schemes have been implemented and the level of performance achieved by the institution as a whole. Thus the conventional form of audit has been changed to a more dynamic system with a view to enabling the auditor to lay emphasis on certain important and essential aspects viz., (i) Propriety audit, (ii) Management audit, (iii) Efficiency audit, (iv) Performance audit and (v) cost audit.

They are briefly explained as follows:-

(a) Propriety audit :- The auditor should examine the various transactions involving expenditure, with the aim of ascertaining their economics, necessity and reasonableness. All improper and irregular decisions and expenditure thereon resulting in the waste of public funds and loss of stores should be brought to light.

(b) Management audit :- The auditor should see whether the management has followed sound lines of business policy or there has been any lapse on their part. In case of lapses are noticed it should be examined in details whether the management has dwindled the business or made the society to run into loss. Management decisions which have resulted in loss to the society should be specifically reported. The policies and decisions adopted by the management should be in conformity with the rules and regulations. The various aspects of planning, control and co-ordination should be examined by the auditor with reference to the results. The auditor should suggest better forms and methods if the existing methods are found inadequate or ineffective. The interest that the management takes in its development, fixing up individual liabilities and responsibilities of staff and watching their adherence, streamlining the administration etc. have to be examined in detail.

(c) Efficiency Audit :- The auditor should examine the results of various schemes implemented with reference to its plan and economics of expenditure with reference to the results achieved, the rate and scale of expenditure in conformity with the plan and estimate already prepared etc., The auditor may work out ratios of each item vis-a-vis the budgetted or targetted figure or figures of the previous years by purchase, sales; trade profit, net profit etc. of the audit year can be compared with those of the previous year by taking the latter as the base year and working out the percentage of ratio.

(d) Performance audit :- The auditor has to probe into the various aspects of the transactions and investigate the performance of the society to high light on the resultant progress or failure in the business. The efficiency, achieved or lost under different business ratios will provide the basis for performance audit.

(e) Cost audit :- (i) Cost Accountancy is defined as the application of costing and cost accounting principles, method and technique to the science, art and practice of cost accounting and the ascertainment of profitability. It includes the presentation of information derived therefrom for the purpose or managerial decision making.

The main objects of cost accounting are (1) cost control (2) ascertainment of profitability (of each activity) (3) assistance to management in its task of making decisions.

The aims are achieved by a purposeful analysis and classification of data and through compilation of reports which enable the management to locate causes of wastage and losses and to decide upon the proper course of action.

(ii) Cost audit aims at perfecting the cost accounts maintained by societies besides examining whether the policy laid down by the management has been or has not been followed strictly. It is the detailed checking of costing system technique and accounts to verify their correctness in order to ensure the adherence of the objectives of "cost accountancy".

(iii) Preparation of final Statements

After completion of the mechanical and administrative audit the preparation of the consolidated statement of receipts and disbursements should be taken up from the general ledger. If general ledger is not maintained the statement should be drawn up directly from the day Book and subsidiary ledger. While checking the general ledger and preparing receipts and disbursement statement from the day book the auditor should be very careful in grouping the various items under, appropriate heads. Negligence in doing so may affect the profit of the society seriously. From the receipts and disbursements statement the auditor should prepare, Trading Account and profit and loss account and balance sheet. Thereafter the audit memorandum is to be prepared in the prescribed from and submitted to the competent authority for further action.

IV Reconciliation of Bank Accounts

(1) Bank Reconciliation statements should be prepared regularly by the office who receives cash bank statements or the pass book. During the course of audit; the auditor should compare the debits and credits shown in the bank statements (or the pass book) with the entries in the cash book / day book, the counterfoils of the paying in-slips and the cheques issued. Contra items either in the cash book or the pass book should be enquired and satisfactory explanations obtained. The items in the Reconciliation at the end of the period should be traced through the following period.

2. Verification of Schedules :- Since the auditor has to certify that he has obtained all the information and explanation required for his audit all statements and schedules and other information will have to be obtained and checked by him before completion of his audit. They will form part of the records of his office.

The Auditor has to obtain the statements such as "Sundry Debtors" "Advances outstanding etc. and got agreed with the figures appearing in the balance sheet. Schedules of different types of advances outstanding at the close of the year should be obtained and checked with the personal ledgers and other records and the total agreed with the amount shown against the items in the

balance sheet. Differences if any should be given special attention the details should be ascertained and reconciled.

While checking ledger balances with the schedules, notes should be prepared showing the period during which the debt or other debit balance has been outstanding whether it has been subsequently recovered and, if not, why it has been allowed to remain outstanding and whether any action has been taken for its recovery. Any other information which will enable the auditor as to whether the debt appears to be good and recoverable should also be collected. A list of all accounts, which are overdue, should be prepared and checked by him.

During the course of verification of schedules with the ledger balances, if the auditor suspects the correctness of any account he should send the debtor a statement of his account as per society's records and request him to communicate the discrepancies, if any. Where pass books are issued to members and other constituents who have dealings with the society, the same may be called for and returned with a request to confirm in the outstanding balances in their accounts.

V Management Accounts

Management accounting helps the Management to control the activities of the institution and to employ its available resources with a view to attaining its objectives and to achieve better results in the given circumstances.

The accounts of Co-operative Institution also are to be maintained in such a way that they should readily exhibit the financial results of the business transactions. The system of accounting should also be conducive for attainment of its objectives. On the basis of working results, the Management should be able to think in terms of corrective measures and development activities such as cost reduction, accelerating rotation of money, maximising profits, extending more services etc. For planning the future programmes of the institution and forecasting results, the Management require classified, processed and detailed data with comparative figures. For this, and also to examine reasons for failure, if any, the Management should have a good accounting system. In short the accounts should, inter alia, guide the Management to take timely and proper decisions and to function effectively. Through the accounts, the Management should also be able to assess the strength or weakness of the institution in a realistic way. A good system of management accounting will enable the Management to analyse the financial and working results, overall performance etc. of the institution within a short time.

The auditor should ascertain whether the system of accounting followed by the society meet with the above requirements. If not, he should guide the institution properly and ensure that a good system of accounting on the above lines is followed by the institution.

CHAPTER IV
VOUCHING OF RECEIPTS

1. (a) What is vouching :- A voucher may be described as a documentary evidence in support of an entry in the books of accounts. It may be a receipt, a counterfoil of receipt book, an agreement, an invoice, a paying-in-slip, bills bought note, sold note, wages book, statement of accounts, minutes of meeting etc.

Vouching may be described as an examination of every transaction of a business with relevant, valid, documentary and other evidences with a view to find out whether it is genuine and bona fide. Vouching is the very essence of auditing and the whole success of an audit depends upon the intelligence and thoroughness with which this part of audit work is carried out. It aims at ascertaining whether a transaction is in order, has been properly authorised and is correctly recorded in the books. It traces an entry to its source and explores its implications and circumstances. It has however to be understood that vouching does not mean merely comparing the receipts and vouchers with the cash book/day book.

A careful comparison of the entries in the cash book, and other books of prime entry with the supporting documents would ensure:-

As regards receipt :- (i) that all moneys due to or receivable have been duly brought into account and there has been no impropriety or irregularity in the realisation of money due to the business.

(ii) All moneys received by the business have been properly accounted for and credited to the proper accounts.

As regards payments :- (i) that all payments made and liability incurred are regular, properly authorised and payable out of the funds of the concern. All payments have to be shown under correct head of accounts, distinguishing between revenue and capital expenditure and in particular the expenditure incurred and liabilities contracted were necessary and incidental to the business of the society.

(ii) No fraudulent or unauthorised payments have been debited which reduce the cash balance of the society, and

(iii) The daily closing balances have been correctly extracted and carried forward.

While examining the vouchers, the following points should be borne in mind:

(1) All the vouchers should be consecutively numbered and file in the order of occurrence.

(2) Particular care should be given to see that the date of voucher correspond to the date noted in cash book, the name of the party from whom it is received, the party to whom it is addressed and the amount.

(3) All vouchers should be cancelled as passed by the Auditor with all documents attached to it by putting his initials with date preferably in the middle of the voucher by a special tick. This is done in order to prevent the production of the same voucher again in support of a subsequent fraudulent or fictitious payment.

(4) Every voucher should be passed by a responsible officer of the society. This may be done preferably on the original voucher itself. If original vouchers are not available this may be done in the voucher obtained in the voucher form of the institution. This will ensure the genuineness of the vouchers produced for audit.

(5) The auditor should ensure that vouchers over Rs. 20 are properly stamped.

(6) He should see whether the amount in figures and in words agree.

(7) Lastly, the auditor should list out all the missing vouchers and explanation for the same obtained from the responsible officer.

To sum up, the auditor should endeavour to satisfy himself the three fold requisites of vouching, namely:-

(a) Proper sanction by a competent authority.

(b) Validity of the documentary evidence and

(c) Bona fide or genuineness of the transaction.

(b) Internal check with regard to cash :- In institutions having large cash transactions, the auditor should see whether there is any proper and efficient system of internal check. No hard and fast rule can be laid down on this, The set up of the system depends on the availability of sufficient number of staff and the volume and frequency of cash transactions. The best system is one which provides no loop-holes to suppress receipt of cash or to create fictitious payments.

The following is the general outline:-

(i) Cashier should not have any control over any ledgers of original entry, except cash book.

(ii) The unused receipt books should be under the custody of a responsible officer, other than the person authorised to sign the receipt. Stock register for the receipt book should be maintained. Fresh book should be issued only when the receipt book in use has been completely exhausted.

When different books are simultaneously in use for different classes of receipts, the receipt should be of different colours or sizes so as to distinguish them easily.

(iii) Daily Tappals should be opened by a responsible officer and all cheques, postal orders etc. should be crossed 'Account payee' only.

(iv) All receipts should be banked daily.

(v) Receipts prepared by cashier should be countersigned by another

responsible person.

(vi) Cash book balance should be reconciled with pass book at regular intervals.

(vii) An efficient system of internal check should be maintained as regards cash sales.

(viii) Monthly statement of accounts of customers must be under the control of some responsible officer; other than the cashier.

(ix) Inward invoices should be verified with the corresponding orders.

(x) Cheques issued must be crossed preferably "Account Payee".

(xi) Receipts received from parties to whom moneys are paid should be examined by a responsible person.

2. Vouching of cash transactions - Control over cash :- In order to avoid misappropriation of funds, there should be an efficient and scientific system of internal check as regards receipt, disbursement and remittance of cash, and for the safe custody of cash balance. Where a cashier is appointed the responsibility of receiving and disbursing of cash, remittances to and from bank, preparing of cheques, etc. should be entrusted to him. The 'Day book' or the 'Main Cash Book' should be written by the Accountant and not by the Cashier. The cashier may maintain a rough cash book or cash diary and the cash summary book.

3. Vouching of receipts - Internal control over receipts :- Vouching of receipts is always difficult than vouching payments, since in a majority cases, no direct evidence as regards regularity and correctness of the amount received, would be available.

To ensure proper control over receipts, the following arrangements are necessary. All incoming tapals should be opened by the Manager or other responsible officer. Cheques, drafts, postal orders, etc. should be specially crossed to the Bank Account and entered in a separate register along with other remittances in currency notes and coins received under insured covers or by money orders before being passed on to the Cashier. At the close of the day entries in this books should be compared with the entries in the Cash Dairy or Rough Cash book maintained by the Cashier.

(i) All remittances made should be acknowledged. Printed receipt books with duplicate, serially numbered receipts to facilitate retention of the Carbon copy, should be used for acknowledging remittances received, either in cash or by cheque. Counterfoil receipt books are not to be recommended. Since the outer receipts and the counterfoil are to be written up separately and it is likely that unscrupulous employees might write different amounts in them. The practice of acknowledging on the invoices, bills or statements issued to the members should be discouraged. The employees should be strictly forbidden from acknowledging

remittances or in the ledger accounts of the society kept by the customer or in the copy of the invoice or bill sent to him. Notice should be given to all members and customers showing that no receipt would be valid unless issued from the printed receipt book of the society and countersigned by the authorised person. All the receipts in the receipt book should have been prenumbered and the accuracy of serial numbers examined before a new receipt book is brought into use. In the case of banks, paying-in-slips in the signature of remitter is recommended.

(ii) Spoiled and cancelled receipts should be pinned to the carbon copy as evidence of what has taken place. Cancellation should be made under initial of the officers authorised to sign the receipts. While checking receipts it should be seen that serial numbers run consecutively and that no receipts are missing.

(iii) Where remittances are received, the signature of the remitter must invariably be insisted upon.

(iv) In the case of withdrawals from Bank, pass book entries or counter-foil of cheques have to be verified before obtaining confirmation certificate from the bank.

(v) Material alterations in the receipt should be initialled by the persons authorised to sign the receipts.

4. Method of checking receipts :- The receipt side of the Day Book should be vouched with reference to the duplicate of the receipt book, paying-in-slips etc. and see that the following particulars correspond.

1. Date of the receipt.

2. Name of the person paying in the amount and on whose behalf remittance is made.

3. Amount received (should have been mentioned both in words and figures).

4. Mode of remittance. (in the case of the receipt by cheque the name of the bank should be specified. In the case of Money Order, Postal order, insured post etc. the mode and purpose of remittance should be specified.)

5. Head to which the amount is credited.

Carbon copies of the receipt issued to the remitter retained in the receipt book only provides for indirect evidence. But there are different types of documents to be examined for verifying such receipts.

5. Shares and entrance fees :- Printed receipts are issued for amounts received towards shares and entrance fees paid by members and prospective members. Since the share amount and entrance fees are to be paid along with the application for membership and the admission takes place only after approval, of the committee, the amounts received would therefore be credited to a share suspense account till admission is granted by the committee. After admission the amount under suspense shall be adjusted towards share and entrance fee. The member will be issued a share certificate bearing distinctive number. His name

will also be entered in the admission register. Counterfoils of share certificates issued will be made available for audit, and the auditor has to check the details contained therein with the entries in the share ledger, (admission register) and the member's register. In cases where additional shares are to be allotted on the specific resolution of the Managing Committee the auditor has to verify the minutes of the committee meting also.

6. Recovery of shares by instalment :- Except in the case of some types of societies such as spinning mills, sugar mills etc. where the value of a share has been fixed high, the full value of the share is recovered in a lump. As such, except in a few cases mentioned above, there is no system of making calls towards balance share money due from subscribers (members). In the case of employees credit societies, monthly subscriptions at rates specified in the bye-laws are collected from members along with other dues to the society. In such cases share is allotted to them when the full amount of share is collected. In consumer stores, rebate or purchase bonus payable to non-member customers is also credited to their accounts and when the full amount of a share is collected, they are enrolled as members and the undisbursed bonus payable to them is credited to their share account.

7. Share capital of newly registered societies :- For the registration of a new Co-operative Society the promoters of the proposed society are required to collect initial share deposit from its prospective members under the head share suspense. This amount has to be deposited in the nearest branch of the District/ Central Co-operative Bank, or in any other Bank approved by the Registrar. The account so opened shall be in the name of the proposed society and operated jointly by the Chief promoter and one or two other promoters duly authorised. No amount is normally allowed to be withdrawn from this account until the society is registered and the account transferred in the name of the registered society with the approval of the Department. If the society is not registered, the registering authority can issue orders permitting withdrawal of the amount and refund to the promoters of the proposed society. The newly registered society at its first General Body meeting should resolve and intimate the Bank and Registrar regarding the registration of the society and also request to transfer the amount in the name of the society. In the first General Body Meeting the promoters will be admitted as members and the amount already paid by them will be credited to their respective share accounts and entrance fee account and the share suspense account debited as per contra.

8. Audit of accounts of societies prior to their formal starting :- The promoters of the proposed society are required to maintain proper accounts in respect of moneys received and payments made by them prior to the registration of the society. If the transactions prior to the registration merely relate to collection

of share capital and incurring of normal expenditure for getting the registration, viz expenses over printing of bylaws, postage, conveyance charges etc., they are generally entered in the cash book of the society to be checked by the auditor. If the promoters have already started business before registration of the society and considerable period elapsed, the auditor should get a statement of receipts and disbursements made by the promoters on behalf of the society and the transactions checked in detail. If the auditor finds any difficulty in checking these accounts, he may seek instructions of his higher officers for auditing the accounts by himself or by certified auditor. In other cases, the receipt and disbursement statement prepared by the promoters and duly signed by the Chief promoter is to be passed in the first General Body. The receipts and disbursements in respect of the pre-started period may be incorporated in the Receipt and Disbursement statement of post-started period and the miscellaneous expenses (initial express) charged to the loss account. However, if the society is to implement a major scheme incurring huge amounts under pre-operation expenses such expenses may be capitalised with the sanction of the Registrar and to be written off within a specified period.

9. Admission of members :- While checking the applications for membership, the auditor should examine the qualifications of the prospective members prescribed under the Co-operative Societies Act, Rules, bylaws and the circular instructions issued by the Registrar from time to time; for example:-

(i) In the case of a farming society members should execute an agreement authorising the society to borrow funds on the security of the lands pooled by them.

(ii) In taxi driver's Co-operative Societies and Auto Rickshaw Driver's Co-operative Societies, the members should have valid driving licenses.

(iii) In a society formed for the promotion of the economic interest of its members through a specified activity, or in a society formed exclusively for the benefit of persons engaged in any particular industry, no person other than one who is likely to be benefited directly by such action or an actual worker in the industry, as the case may be, shall be admitted in excess of the limit that may be specified in the byelaws or in any case in excess of 10 percent of the total number of members in the society.

(iv) In the case of admission in two credit or housing societies, necessary precaution has been made with regard to the prohibition of dual membership.

(v) Undertakings to be furnished by members of salary earners societies, authorising their employers to deduct from their salaries, or wages, dues of the society as communicated by the society.

(vi) Declarations furnished by members of housing societies regarding building plots, houses, or tenements already owned by them should be verified. Compliance of the provisions of the bylaws regarding purchase of shares in

proportion to acerage under specified crops held, loans borrowed etc. will also have to be verified. The auditor should also check whether the society has maintained a share application register as contemplated in Rule 29 (2) (b) of the Kerala Co-operative Societies Rules.

10. Checking of admission register :- The entries in the admission register have to be checked with the application for membership, resolutions of the committee day book relating to receipt of share capital, entrance fees etc. In case of refusal of membership, the date of committee resolution and reason for refusal should be ascertained and see that they are recorded in the 'remarks column' of the share application register. As regards resignation of membership or transfer of shares, relevant resolutions of the committee accepting the resignation or approving refund or transfer of the shares held should be verified and satisfied. It should be ensured whether the provisions of the Act. Rules and the byelaws have been complied with in the refund/transfer. It should also be seen that the resigning member has repaid all his outstanding to the society in the capacity of principal debtor or surety. If the auditor is satisfied after checking he should put his dated initials in the column specified in the register in token of having verified the entries.

11. Receipt of Government assistance, Share capital, loans and subsidy :-

(a) Receipt of share capital :- Government contribute either directly or indirectly to the share capital of certain types of societies. Only those societies which satisfy the terms and conditions laid down by Government in this regard would be eligible for the contribution. Therefore while vouching the receipt of share capital contribution, the auditors should study the terms and conditions specified in the sanction order for the grant of assistance. The pattern of assistance differs from type to type. As Government is entitled to receive dividend on the shares held by them like any other share holder, the auditor has to verify whether the society has issued necessary share certificate in favour of Government.

(b) Receipt of loan and subsidy :- As regards receipt of Government loan and subsidy, the auditor should verify the order sanctioning the loan or subsidy. He should also see whether the terms and conditions subject to which the loan/ subsidy has been sanctioned are duly complied with. During the course of audit, the auditor should ascertain the proper utilisation of the loan/subsidy by the society and indicate in his report cases of non-compliance of conditions, if any.

Loans are sanctioned to the village credit societies, Rural banks and marketing societies for construction of godowns. In such cases, the auditor should verify the original sanction order and also the intimation if drawals together with the receipt. He should also see whether the proceeds of the bills is immediately deposited in the district/central Co-operative Bank and utilised the amount properly as specified in the sanction order.

Joint Registrars, Deputy Registrars and other Officers sanctioning loans and subsidies have directions to forward to the auditor concerned a copy of the order sanctioning loan and/or subsidy. When loans and subsidies are sanctioned by other departments of Government (Industries Department, Fisheries, Harijan Welfare, Dairy Development etc. or by the Central Government or other authorities (NCDC) etc.} the Joint Registrar or the Deputy Registrar to whom a copy of the order has been received has to communicate the same to the auditor concerned to enable him to note compliance of the conditions of the loan or subsidy. Even if he was not supplied with copies of such orders he should ascertain the terms and conditions from the copy of the order received by the society and point out non-compliance, of the conditions, if any noticed by him.

Institutions which are receiving assistance like grants, subsidy etc. should maintain registers in the form prescribed. The societies are also required to furnish an undertaking to the sanctioning authority not to misutilise such assets or not to dispose of or mortgage the assets without the prior concurrence of Government/ authority. The Auditor should also verify as to the proper maintenance of the prescribed registers and also see whether the conditions laid down are adhered to by the institution.

(c) Accounting of Subsidies granted by Government :- Managerial subsidies received towards the cost Secretary or other management expenses may be taken to Profit and Loss account except in cases where specific instructions are given for its treatment. Where any conditions have been laid down or special instructions have been issued by the Registrar for the utilisation of Government assistance, it should be seen that these conditions or instructions are complied with.

All the societies receiving grants-in-aid are required to furnish an undertaking agreeing to abide by the conditions attached to the grant-in-aid. Such societies are also required to maintain a register, in the proforma, prescribed and also not to dispose of, encumber, or utilise them for other purposes without prior concurrence of Government.

In case of all societies, which receive loan or subsidy under special schemes, orders sanctioning the loan or subsidy will contain specific instructions as regards treatment in accounts of subsidies granted to them. The conditions specified in the sanction orders should be carefully studied by the Auditor and their compliance watched. Subsidies granted by Government towards capital cost of a scheme, should invariably be taken to capital Reserve.

(d) Small Farmers' Development Agency :- S.F.D.A. give subsidy for various approved schemes to the identified beneficiaries (viz. potentially viable Small Farmers, Marginal Farmers and Agricultural Labourers). The schemes are financed through Co-operative Societies/Banks and Commercial Banks. Advance

subsidies are given by crossed cheques to be adjusted within a period of 3 months. They are not paid direct to the borrowers/beneficiaries, but given to the financing institutions, for adjustment to the loan accounts of the borrowers in order to reduce the interest burden on the credit extended to them. The Auditor should, therefore, verify whether the subsidies sanctioned for any programme are correctly and properly accounted and promptly adjusted in full to the loan principal of the beneficiary.

The Agency also gives Risk Fund to Co-operative Societies at the rate of 4% on medium term loans issued to S.F.D.A. beneficiaries each year. Similarly Risk Fund is given at the rate of 4% on the additional quantum of short term loans issued to S.F.D.A. beneficiaries each year. The District Co-operative Banks are paid Risk Fund at the rate of 2% on short term and Medium term loans issued to primary Co-operative Societies. Risk Fund is also paid to the Primary Co-operative Land Mortgage Banks at the rate of 2% on the long term loans issued to S.F.D.A. beneficiaries.

As per Rules governing the assistance the amounts of such contribution to Risk Fund shall be credited to the Bad Debt Reserve of the Society/Bank. The Risk Fund sanctioned is allowed to be treated as part of the Societies Bank's owned Funds to be utilised in their normal business.

Since the Agency is making all payments by way of crossed cheques only, the pass books with the District/Central Co-operative Bank/other Banks have to be verified by the Auditor. They should also go through the approved schemes of S.F.D.A. before audit and ensure that the conditions stipulated in the rules are strictly complied with.

12. Receipt from financing agencies :- While vouching the receipt of loans from financing agencies, like the District/Central Co-operative Banks etc. the loan application, loan sanction order, disbursement statement etc. should be verified. The auditor should also verify whether there is proper resolution of the Board of Directors for applying for the loan and whether the society has borrowed funds in excess of the limits prescribed under the byelaws. Duplicate copies of the loan bond or agreement and promissory note, should also be examined.

13. Repayment of loans by members :- For acknowledging repayment of loan made by members, printed receipts from the official receipt book are generally issued. Entries in the cash book/day book should be verified with the duplicate or counterfoils of receipts in which the respective remitters have put their signatures. Where pass books are issued to the borrowers, a few of the pass books at random should be called for and checked with the account in the ledger.

The auditor should be careful to locate instances of book adjustment. In

order to get themselves eligible to receive fresh loans from the District Central Co-operative Banks, certain societies indulge in the undesirable practice of book adjustment with a view to show a reduced percentage of overdues. This sort of clearing of overdue loans simply by book adjustment, if allowed to continue will ultimately, result in the debts becoming bad.

14. Cash Sales :- This item of receipt provides great scope for misappropriation of money, unless there is a definite system of internal check. Cash memos showing particulars of goods sold, such as quantity, rate etc., and amounts received, should be checked with the daily sales register. (The procedure for checking cash sales has been discussed under "Vouching of trading transactions").

15. Receipt from debtors :- As regards receipt of cash from debtors, one of the important precautions to be taken is to see that the cashier has no control over the preparation or of despatching of the monthly statements to them. Particular attention should be paid with regard to the payment of discount. The method of granting discount should be enquired into and any deviation from the normal rate should be noted and pursued farther. Wherever possible, the auditor should get confirmation from debtors, preferably a statement of accounts may be obtained and the balances get confirmed.

16. Sale proceeds of Government Securities and other Investments :- Since purchase and sale of Government securities and other investments are made through brokers of bank, the amount received on account of their sale should be vouched with the brokers sold note. The auditor should also see that necessary adjustments are made for interest included in the sale proceeds and income-tax deducted therefrom. The auditor will verify the resolution of committee/Board for the sale of the assets. The auditor may also verify the sale rate with reference to the market value quoted in the relevant Share Market reports from the State Bank of India.

17. Capital receipts :-

(a) Sale of immovable property and other fixed assets :- In order to vouch the receipt on account of sale of immovable property the auditor has to satisfy whether proper sanction of the Registrar has been obtained for the sale. If the property is sold on public auction, the auctioner's report will be available in order to ascertain the sale proceeds. On the other hand, if it is sold on private negotiation, the agreement for the sale, the sale deed and other correspondence should be verified.

In the case of sale of fixed assets, the auditor's duty extends to the verification of connected records and calling for detailed information in order to ascertain whether the amount of sale proceeds was reasonable.

(i) Sale of fixed assets should be authorised by the Committee and General Body and sanction from Department should be obtained. Where fixed assets are sold, the value of such assets shown in the books of accounts should be removed from the balance sheet. In the case where a register of fixed assets is maintained, the accumulated depreciation pertaining to the items disposed of should be ascertained and written off against the original value of the items and the remaining net book value, if any, charged against the proceeds of the sale. If the sale proceeds are in excess of the net book value of the assets shown in the balance sheet, the surplus should not be taken to the profit and loss account, but should be credited to a "special capital reserve" or similar other fund. Any deficit remaining after adjusting the sale proceeds against the net book value should be written off against the profit and loss accounts. The profit or loss incurred on disposal of the fixed assets should be clearly disclosed in the accounts. When fixed assets are disposed off, it is the duty of the auditor to see by a reference to the sale agreement and other correspondence that the prices realised, are reasonable. This should be particularly seen when fixed assets are sold to parties who occupy positions in the society. For eg. When a vehicle/plot/building is sold to a relative or friend of a Director or an employee of the society and the price realised is below the market rate, further investigation is called for.

(b) Sale of movable properties :- The auditor has to examine whether the sale of movable property has been authorised by the committee and that sufficient publicity has been given for the sale. He should also verify the auctioner's report if it was sold on public auction and the agreement for sale and sale deed etc. if sold on private negotiation. The net value of the asset is to be arrived at by deducting the 'depreciation reserve' charged already then the surplus or deficit remaining after adjusting the sale proceeds should be ascertained. If the sale proceeds are in excess of the net book value arrived at as above, or as shown in the Balance Sheet, the surplus should not be taken to the profit and loss account., but should be credited to the "Capital Reserve" or similar other funds. Deficit, if any, remaining after adjusting the sale proceeds against the net book value should be written off charging the loss account. Profit or loss found on disposal of the assets should be clearly disclosed in the accounts.

18. Miscellaneous receipts :-

(i) Interest and dividend :- Interest received on account of deposits with banks will be vouched with the corresponding entries in the pass book. In the case of fixed deposits and other investments the rates of interest can be ascertained from the deposit receipts and thus interest can be checked by calculating interest on the deposits or securities. Interest can be checked by

calculating interest on the deposits or securities. Interest and dividend on investment and shares should be checked with the counterfoils of the dividend warrants. When register of investments have been properly maintained the auditor can make use of this register for checking the receipts. In the case of interest on securities the concerned bonds themselves should be inspected.

Occasional receipts such as sale of scraps, unused stores and spare parts, unused materials, waste papers etc. and also receipts from insurance companies and railways in respect of claims should be vouched from the receipts issued correspondence, minutes and relevant documents.

(ii) Rent receivable :- The lease deeds and agreements should be examined to ascertain the amount of rent and the due dates. If the Society Bank has maintained a Rent Roll, the rent received as shown there in should be checked with the Day Book. He should also see whether all arrears have been accounted for properly and action taken for recovering them in time. Where properties or tenements are shown as assets, enquiries should be made as to why and how long they are vacant. Housing Societies, Co-operative Industrial estates and other societies which hold large properties should maintain "Property Registrar, Demand Register, Rent Registrar etc. and the Auditor should verify the same and ascertain whether all the particulars showing the lands acquired by the society are there.

(iii) Hire charges of vehicle and machines :- Societies which own vehicles should maintain log book and trip sheet in respect of each vehicles. In the case of machinery and other costly equipments, proper accounts should be maintained with regard to the hiring out of the machinery or equipments. When these are hired out to the members of the society, necessary applications should be obtained from the hirers regarding the nature of service required, period for which they are hired out etc. Hire charges due to the Society will be verified, with reference to the log book, trip sheet and other records. For hire charges received printed receipts should be issued. The auditor can check the amount received with reference to the counterfoils of the receipts and other records mentioned above. The rates of hire charges should be fixed by the Committee. Hire register is to be maintained by the society. When the number of such vehicles or machinery is large, daily reports should be obtained from the officers in charge. The auditor will see whether the performance of the vehicle has been periodically tested by some approved workshop and the rate of fuel consumption of each vehicle got certified.

(iv) Bills receivable :- Bills receivable Register has to be verified with the Day book and Pass book. The auditor has to examine in detail, the bills matured but amount not received. It should be particularly examined whether all bills that have become due are accounted for.

(v) Commission :- Commission received will be checked with the

commission accounts of the parties from whom it is received. In order to ascertain the rate of commission, the agreements have to be verified.

(vi) Interest received on loans and advances :- Interest received on loans and advance to members will be checked from the counterfoils of the printed receipts issued to them. Calculation of interest will have to be checked while checking the postings into the loan ledger.

(vii) Sale of forms, news papers and periodicals :- Usually these items can be charged to Establishment and Contingencies under stationery and printing. But some times these items may be purchased/printed for more than a year to achieve economy, in some other cases, there will be purchase/printing for re-sale also. In such circumstances the expenditure should be capitalised and shown as other assets in the Balance Sheet. The value of stock issued should be charged to loss account every year and the sale proceeds should be taken under Miscellaneous Receipt.

The following points also should be borne in mind in accounting the above:-

(1) The stock should not be included under Trading A/c.

(2) As the purchase/printing/sales etc and re-sale to members are not done to make any profit, no separate trading account need be prepared for the same.

The above instruction will not apply to societies whose object includes purchase and sale of stationery articles (like consumer Stores) printing societies etc. In their cases these purchases will come under trading account except those required for their own purposes.

(viii) Suspense Assets and Liabilities :- *"Suspense Account"* is an account to which items of receipts or payments are temporarily posted pending ascertainment of specified heads of account, When a loan is disbursed to a member the payment can straight away be classified to *"Loan account"* in the Day Book. But when money is paid in advance to a clerk for purchase of some articles for the society, the amount so paid cannot straight away be debited to *"Purchase Account"* or *"Materials Account"* as it will not be supported by any cash bill or invoice. In such cases the payment or entrustment of the money to the clerk can only be treated as an advance to be recouped when the articles are actually purchased and cash bill/invoice are produced. Such payment in advance will be booked under *"Suspense Asset Account"*. It is an *"asset account"* because like any other advance these amounts are *"due to"* the society.

Similarly when a prospective member remits money towards share capital before he is actually admitted to membership, that amount cannot straight away be credited to 'share capital Account' till he is admitted by the Board as per rules. In these case the receipt of money will be treated as an item of advance and booked under *"Suspense Liability Account"*. When he is actually admitted as a member, the amount is refunded to him by *"book adjustment"* (transfer entry)

and credited to his share capital account.

From the above it will be seen that *"suspense Assets-Account"* and *"Suspense Liability Account"* will have both, a receipt and a payment entry when the transactions are completed.

Separate subsidiary ledgers have to be maintained for both those accounts in which separate folios are provided for each person for his transactions with the society. These ledgers have to be balanced at least once in every month and the total balances tallied with that arrived at in the general Ledger, under the respective heads. So also at the close of the year, a list of all outstanding items under these heads should be prepared and the balances got agreed with the General ledger balances. The auditor should close all accounts recording the total receipts, payments and balances in each account at the end of the year. The balances under each item should be confirmed at the end of the year and if any difference is noted that should be reconciled.

While checking the accounts under 'suspense assets' the auditor should ensure the following, that:-

(a) the payment is supported by a proper voucher and is for a genuine purpose and made by a competent authority.

(b) the payment is correctly recorded and posted in the suspense assets ledger and in the account and folio of the concerned person.

(c) the balance struck in the suspense asset ledger whenever a transaction takes place is correct.

(d) the amount was utilised for the purpose for which it was taken and accounts settled immediately after the amount was utilised.

(e) when the advance is recovered by "adjustment", care should be taken to see that corresponding, (contra) payment entry is also made by "book adjustment" and 'not by cash' as such a wrong entry will have the effect of reducing the cash balance which will tend to falsification of accounts and eventual defalcations.

The following are some of the points to be borne in mind by the auditor while checking the accounts under 'suspense liability Account".

(i) The receipt of the amount was genuine and properly accounted in the books of the Society.

(ii) Each item of receipt from different persons is recorded in separate folios in the Suspense Liability register and the balance correctly struck.

(iii) There are no over payments or false payments and that vouchers are obtained from the same persons in whose name the amount was received.

(iv) The original receipt given to the party should be got surrendered and kept with the voucher for refund of the amount.

(v) When refunds are recorded by "adjustment" care should be taken to see that there is corresponding receipt entry by taken to see that there is

corresponding receipt entry by "adjustment" to the correct account.

Apart from these, it is a common practice to exhibit all objected payments and sometimes receipts also, in suspense accounts. When a payment is objected by the auditor, that amount is rounded off in the General ledger and deducted from the payment side, the total of the account concerned, and transferred to "suspense asset account" in the General ledger at the same time recording the transactions as an item of objected payment in the suspense assets ledger. In such case the account and folios to which the amount was deducted and transferred and vice versa should be noted in the General Ledger.

19. Deposits :-

(i) Fixed Deposit :- The auditor has to verify the byelaws and to examine whether the receipt issued for this kind of deposit is in conformity with the bylaws. For fixed and call deposits, printed receipts from the counterfoil receipt books specifying the terms and conditions of deposits such as rate of interest, period, due date etc. are to be issued to depositors. Counterfoils of receipts should be checked with the entries in the Day Book and the fixed deposit register.

(ii) Recurring deposits :- Here a fixed amount of Re.1 or multiple thereof is paid every month for a fixed period, say 12, 24, 48 months etc. to the society. The paying-in-slips or chalans would be available for checking the amounts received. The auditor may also call for a few pass books and verify them. Daily/ weekly/monthly deposits will also come under this head.

(iii) Saving deposits :- A member or a non-member can open a savings deposits account subject to the conditions prescribed under the bylaws or sub rules. Interest is usually paid on the lowest balance on any date in each month. The paying-in-slips, or chalans, which are filled in by the remitters, would be available for checking the amounts credited to their respective accounts. The auditor should call for a few pass books of depositors and compare them with ledger accounts.

(iv) Current deposits :- Pay-in-slips or chalans which are prepared by the remitters, for remitting the amounts have to be checked with the deposit register. The auditor may also verify a few balance Confirmation Certificates from the depositors obtained by the society. Otherwise, he may call for the Confirmation statements of balances from a few account holders.

20. Others :- Occasional receipts and receipts which are not specified above should be vouched from the receipts issued, correspondences, minutes and other documents available in the society.

(To be continued in "Theory and Practice of Co-operative Societies Laws in Kerala Vol. II)



"The history of mankind is the history of Co-operation and Conflict"

